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ON CIVIL AND
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Fifth session

SUMMARY RECORD OF THE 112th MEETING

held at the Palais des Nations, Geneva,
on Thursday, 26 October 1978, at 10.30 a.m.

Chairman: Mr. MAVROMATTIS

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The meeting was called to order at 11 a.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

1. The CHAIRMAN announced that Mr. Gangi had informed him by telegram that he would be unable to attend the Committee's fifth session. He reminded members that it was imperative to ensure that a quorum was maintained until the end of the session to enable the Committee to adopt its annual report to the General Assembly.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (continued)

Union of Soviet Socialist Republics (continued) (CCPR/C/1/Add.22)

2. At the invitation of the Chairman, Mr. Sudarikov (Union of Soviet Socialist Republics) and Mr. Kolibab (Union of Soviet Socialist Republics) took places at the Committee table.

3. Mr. SUDARIKOV (Union of Soviet Socialist Republics) said that he and his colleagues had listened attentively to the questions put to them after the oral report he had submitted to the Committee at its 108th meeting. They had noted with satisfaction the great interest taken by the Committee in the information submitted by the Soviet Union and welcomed the endeavours the Committee was making to deepen its knowledge of the Soviet Union's legislation and to understand its new Constitution. The USSR favoured open dialogue in international fora on all questions, including questions relating to human rights. The Soviet peoples were proud of their achievements in human rights and had nothing to hide from world public opinion in that field.

4. Replying to questions raised by members of the Committee on the report submitted by his Government (CCPR/C/1/Add.22) and on his oral statement (CCPR/C/SR.108), he said that nearly all members of the Committee had asked questions about the relationship between the International Covenant on Civil and Political Rights and Soviet domestic legislation. As had been made clear in his Government's report and in the statement he had made to the Committee, all the provisions of the Covenant were incorporated in the Soviet Constitution, particularly in articles 40-51, and therefore had the force of constitutional law in the Soviet Union. In essence, there was no difference between the Covenant and Soviet legislation, even though the wording of certain Soviet laws might not always be identical with that of the Covenant. If citizens had grievances they could invoke the provisions of the Covenant as well as those of domestic laws before the courts. The complete text of the Covenant had been officially published and made available in the languages of all the Union Republics. Citizens were afforded every opportunity to acquaint themselves with the texts of both the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Rights.

5. It was quite true that the ratification by the Soviet State of the Covenants in 1973 and their entry into force in 1976 had not necessitated any changes in or additions to Soviet law. Since its inception, the Soviet State had been concerned to enact laws protecting human rights. That did not mean, however, that the legislative process could not be improved. Legislation to cover the next three years was being drafted and account would be taken in its preparation of matters covered by the Covenant and of new problems resulting from the development of life itself.
6. Mr. Opsahl had asked whether the provisions of the Covenant had been taken into account when the new Constitution had been drafted. That question could be answered in the affirmative. Indeed, Mr. Brezhnev had stated that the provisions of the new Constitution were fully consistent with those of international instruments on human rights.
7. Turning to the questions raised in relation to article 1 of the Covenant, he said that Mr. Opsahl and Mr. Tomuschat had asked about effective guarantees of the right to self-determination. The Soviet Union was made up of peoples of many nationalities; one of the first actions of the Soviet authorities had therefore been to enact a decree on the rights of the peoples of Russia. The decree had been adopted in November 1917 and the principles it had established were still in force. Nevertheless, as could be seen from articles 8, 9, 10 and 11 of the new Constitution, several aspects of the right to self-determination had been improved and rendered more democratic.
8. Some members of the Committee had asked whether Republics wishing to do so could secede from the Soviet Union. In the first place, it should be realized that it was absolutely inconceivable that a Republic would want to secede, since there was a solid and unshakeable bond uniting all the peoples and nations of the State, which attributed their well-being to the fact that they formed part of the Soviet Union. Nevertheless, the right to secede did exist and could be exercised. The geographical configuration of the Soviet Union was such that the frontiers of the Union Republics bordered on States which did not form part of the Soviet Union; thus, secession was possible. It was a fact that all the Republics were equal. In the time of the Tsars, some outlying areas had been very backward: the Soviet authorities had therefore set themselves the task of establishing equality for all the Republics and to that end had allocated large sums from the central budget for their development.
9. Some members had asked whether there were national schools and whether instruction was given in the national languages. The answers to those questions were affirmative. Each Republic, region and district had its own schools which taught the national language. In addition, newspapers and journals were published and plays performed in the national languages. There was a Jewish autonomous region and there were German schools. The history and culture of all nations were studied in the Soviet Union and national traditions were handed down from generation to generation.

10. Clarification had been requested about the observance of laws by State officials and bodies. That matter was governed by article 4 of the Constitution, under which the Soviet State and all its bodies ensured the maintenance of law and order and safeguarded the interests of society and the rights and freedoms of citizens. Similarly, in article 164, the Constitution provided that the supreme power of supervision over the strict and uniform observance of laws by all ministries, State committees and departments, institutions and organizations, collective farms, co-operatives and other public organizations, officials and citizens was vested in the Procurator-General of the USSR and the procurators subordinate to him.

11. Turning to questions raised in relation to article 2 of the Covenant, he said that Soviet legislation ensured the equality of all citizens before the law, as stipulated in article 34 of the new Constitution. There were no laws limiting equality of rights in economic, political, social or cultural life. Citizens were free to hold opinions different from those of the authorities and were entitled to criticize public organizations. Under article 49 of the Constitution, citizens had the right to submit proposals to State bodies and public organizations and to criticize shortcomings in their work. Effective means for the protection of that right were provided in Soviet legislation.

12. Replying to questions put concerning the role of the Procurator-General, he said that the Office of the Procurator-General played an important role in the protection of human rights and the observance of law in the Soviet Union. The Procurator-General was appointed by the Supreme Soviet and was answerable to it. The other procurators were appointed by the Procurator-General. Article 168 of the Constitution provided that the agencies of the Procurator's Office exercised their powers independently of any local bodies and were subordinate solely to the Procurator-General of the USSR.

13. The provisions of article 2, paragraph 3 (b) of the Covenant were fully observed in the Soviet Union. Article 58 of the Constitution provided that appeals against actions by officials that contravened the law or exceeded their powers and infringed the rights of citizens could be lodged with a court. It also provided that citizens of the USSR had the right to compensation for damage resulting from unlawful actions by State organizations and public organizations or by officials in the performance of their duties. Before the adoption of the new Constitution, the provisions of article 2, paragraph 3, of the Covenant had been covered by various legislative acts, in particular by article 6 of the Civil Code. The question of compensation for moral damage was governed by article 89 of that Code, which protected the honour and dignity of the individual. Mr. Opsahl had rightly pointed out that under article 2 of the Covenant States were bound to guarantee and protect human rights. The Soviet Union attached great importance to the de facto protection of human rights and did everything possible to ensure that citizens also enjoyed broad economic and social rights which made it possible for them to enjoy all other rights.

14. The answer to Mr. Lallah's question about the connexion between individual and collective rights was to be found in article 20 of the Constitution, in which it was stated that the free development of each was the condition of the free development of all.

15. In relation to article 3 of the Covenant, several members had asked what role women played in State and public life. Women in the Soviet Union participated actively in State affairs. Forty-seven per cent of People's Deputies, more than 30 per cent of the members of the Supreme Soviet and 36 per cent of officials in people's courts were women. Women accounted for 25 per cent of the membership of the Communist Party and over 40 per cent of that of trade unions. Soviet legislation did not prohibit marriage between Soviet citizens and foreigners. Property acquired while the spouses were co-habiting was regarded as joint property. In the past, women had been discriminated against in certain Republics, but steps had been taken to redress the situation and the criminal codes of the Republics contained provisions designed to ensure the participation of women in public affairs.

16. Several questions had been asked about the death penalty. In the USSR, the death penalty was regarded as an exceptional measure of punishment and was applied only for the most serious crimes. Judges were not bound to pronounce the death sentence, but could replace it by other measures. Under the Criminal Code, the death sentence could, but need not necessarily, be pronounced for acts of terrorism (article 66), terrorist acts against representatives of foreign States (article 67), banditry (article 77), murder (article 102) and rape by particularly dangerous offenders (article 117). Mr. Graefrath had referred to measures to ensure the protection of young children. In the Soviet Union many measures were taken to protect mothers, including working mothers, and children. Under article 71 of the Labour Code, a woman was entitled to maternity leave for 56 days before the birth of her child and 56 days after the birth. Article 72 of the Code provided that nursing mothers were to be given time off to feed their children every three hours. Under article 73 of the Code, pregnant and nursing women could not be dismissed. All new-born children and their mothers were given all necessary medical care free of charge. The decline in infant mortality and the improvement in the life expectancy of mothers proved that the rights of mothers and children were being exercised. Average life expectancy in the Soviet Union was 70 years. There were 23 Soviet citizens who were more than 100 years old.

17. Mr. Opsahl had referred to the statement, in the fourth paragraph of the USSR report (CCPR/C/1/Add.22), that the new Constitution provided a higher and qualitatively unprecedented level of protection of all the rights and freedoms of every Soviet individual of the Soviet people as a whole including, in particular, the right to life. In the opinion of the Soviet Government, the right to life was determined by the foreign policy of a State. Article 28 of the Constitution stated that the USSR steadfastly pursued a Leninist policy of peace and stood for strengthening of the security of nations and broad international co-operation. That was why the sentence in question had been included in the report. The Soviet Union had done, was doing and would continue to do everything in its power to ensure that mankind was never again afflicted by war.

18. Mr. KOLIBAB (Union of Soviet Socialist Republics), replying to further points raised, said that a question had been asked, in connexion with article 7 of the Covenant, about the duties of the police in the Soviet Union. Under a Decree of the Supreme Soviet of 8 June 1973, the police force was required to promote civil order and social justice, to protect the legitimate rights and interests of citizens against criminal offences and other breaches of the law, and to observe Socialist legality. Responsibility for control and supervision of the police force lay with the Office of the Procurator-General, which was also required to ensure respect for the rights of citizens deprived of their liberty.

19. A number of questions had been raised regarding internment in psychiatric institutions. In the Soviet Union, persons suffering from illnesses that - for instance, venereal disease, leprosy, chronic alcoholism and drug addiction - constituted a danger to others could be made the subject of an order for compulsory medical treatment or hospitalization under section 59(1) of the Public Health Act of 8 May 1971. That provision was not, however, a violation of either article 7 or article 9 of the Covenant. Under section 56 of the same Act, where there was a known danger arising from the behaviour of a mentally ill person, either to himself or to others, the health authorities in the Soviet Union were empowered to intern that person in a psychiatric institution. In such a case, the patient had first to be brought before a panel of psychiatrists, who decided whether or not his internment was justified. Under section 8 of the Act, the Ministry of Health was responsible for the quality of medical treatment, and local deputies supervised the observance of the law in that regard. The Procurator-General was entitled to verify that the internment of any person in a psychiatric institution was justified. There was, however, absolutely no question of any person in good health being interned. Indeed, such an occurrence was quite unthinkable.

20. It had been asked, in connexion with article 8 of the Covenant and with special reference to collective farms, whether forced labour was permitted in the Soviet Union. He wished to stress that collective farms were formed on a purely voluntary basis to carry out large-scale socialist production through collective work. Whether a farmer took part in the work of a collective farm was entirely a matter for him to decide and there was nothing to prevent him from leaving it should he so wish.

21. With regard to the rights of prisoners held in detention pending trial, which were guaranteed under article 9 of the Covenant, he said that section 2 of the Decree adopted by the Presidium of the Supreme Soviet on 13 July 1976 provided that a person suspected of committing a crime could be held in pre-trial detention only on the following grounds: if he had been caught during or immediately after the commission of the offence; if witnesses, including the victim, directly identified him; and if there was clear evidence, either on his person or at his place of abode, that he had committed the offence. If there were any other grounds of suspicion, a person could be arrested and detained only if he had tried to escape or had no permanent place of abode, or if it was not possible to establish his identity.

Section 12 of the Decree provided that a person held in pre-trial detention must be released if the evidence against him could not be confirmed, if there was no longer any need to detain him, or if the period for which he could be detained by law had expired. A person held in detention must be released as soon as instructions to that effect were received from the official authority and, in the absence of grounds for extending the period of detention, the officer in charge of the inquiry was required to release him immediately.

22. Under Soviet law, a person could be held in preventive detention for a period of two months; that period could be extended by the Procurator-General within the time limits laid down by law but could not exceed nine months. The nine-month period could, however, be extended if a new trial was ordered.

23. The purpose of a Decree adopted by the Supreme Soviet in February 1977, which amended the Criminal Code, was to provide for the re-education of persons convicted of crimes without isolating them from society. Thus, the court could order the release of a person convicted for the first time and for a minor offence incurring a penalty of imprisonment of not more than one year, subject to the condition that he performed some useful work during the period of his sentence. In the case of a minor convicted for the first time, the court could suspend sentence for a period of up to three years and, if at the end of that period the minor had been rehabilitated, could quash the sentence.

24. With regard to the rights of persons deprived of their liberty, which were guaranteed under article 10 of the Covenant, he said that the purpose of punishment in the Soviet Union was not to inflict suffering but to re-educate the convicted person in the spirit of an honest attitude to work, respect for the law and the rules of socialist community life, and to prevent the commission of further crimes. That was achieved by enabling the prisoner to do useful work, in keeping with his ability and speciality, and to receive general technical and/or vocational training. The prisoner's working day did not exceed eight hours and he was entitled to one free day a week. Prisoners were paid for their work and, by law, were guaranteed hygienic living conditions and food that was sufficiently nutritious to enable them to work normally. Minors, nursing mothers, pregnant women and invalids enjoyed better living conditions, higher food standards and certain other privileges. All categories of prisoners could receive books, and also visits from members of their family, although the number of such visits and their duration depended upon the régime in the prison in question.

25. Persons convicted for the first time were normally held in detention within the confines of the Republic where they had been living prior to their arrest. Solitary confinement was not imposed for criminal offences under Soviet criminal law, although it could be imposed for certain breaches of discipline in some prisons.

26. The rights of the accused, which were guaranteed by article 14 of the Covenant, were protected by sections 151-160 of the Constitution and the relevant sections of the Code of Criminal Procedure. Judges were elected to office - one of the most democratic principles in the Soviet system - and, under article 155 of the Constitution, were independent and subject to the law. Members of juries did not receive payment and their vote was equal to that of the judge. The court system in the Soviet Union comprised the Supreme Court, of the USSR and the Union Republics, the regional and city courts, and military tribunals for offences committed by members of the armed forces. The Supreme Court of the USSR was the highest judicial body in the Soviet Union. In general, it supervised the functions of the lower courts and issued decrees adopted on the basis of case law with a view to assisting the lower courts in the understanding and application of the law. It could also quash sentences delivered by the lower courts and order fresh trials.

27. Cases were normally held in public. Hearings in camera were very rare, and were governed by strict rules, in particular by section 12 of the Fundamental Principles of Criminal Legislation. The accused was entitled to call witnesses but it was for the court to decide, in the light of all the circumstances of the case, whether or not to hear them.

28. The Soviet bar was organized on the basis of the provisions relating to advocacy in the Soviet Union, which had been adopted on 25 July 1962. Under those provisions, all citizens were entitled to legal assistance during the preliminary inquiry and throughout the trial in criminal cases, as well as in civil cases and arbitration. Colleges of advocates, which were voluntary associations of professional lawyers, had been formed in all Republics, towns and villages to provide citizens with legal advice, which included filing submissions and drafting pleadings on request. A lawyer could be appointed by the court, but the accused was entitled to decline the assistance of a lawyer and to conduct his own defence. Provisions governing colleges of advocates had been included in the Constitution for the first time.

29. Comrades' courts were not part of the State legal system but bodies whose members were elected at the place of work or residence. Those courts, whose activities and decisions were supervised by professional bodies and unions in the local Soviets, dealt mainly with breaches of discipline at work, embezzlement, theft and improper attitudes to women, parents, children, work, the home and education. Hearings were held outside working hours and in public, and all those present could put questions to both parties. The court might simply discuss the issue without imposing any penalty, although any decision it did reach had to be properly based in law. An appeal could be lodged against the decision of a comrades' court with the office of the local deputy. The main work of the comrades' courts was prevention of crime and education of the people in the protection of citizens' rights.

30. The Soviet Union attached the utmost importance to the educational role of law and one of the fundamental tasks of the Ministry of Justice, as of other government and State bodies, was the legal education of citizens, for the more people knew about the law the less likelihood there was of their breaking it. Thus, court hearings were designed to guarantee justice and humanity in the application of the law. Soviet law was open to all citizens and all acts and decrees were made public. Books and articles on law and legal advice and research studies were made available to the people, and basic Soviet law was a compulsory subject in secondary schools. Statements of lawyers were published in journals having a wide circulation, with a view to familiarizing the people with legal matters.

31. A question had been raised as to the retroactive nature of law in the Soviet Union. The basic rule was that legislation remained in force until new legislation had been passed. It should, however, be noted that article 6 of the Criminal Code provided that crimes were punishable by the law in force at the time when the offence was committed.

32. With regard to article 16 of the Covenant, Soviet legislation defined legal capacity as the capacity to acquire civil rights and fulfil civil duties. Legal capacity could be limited only in the manner prescribed by law, namely, by a court order or upon conviction for a crime for which the Criminal Code provided that the exercise of that capacity should be prohibited. Sections 15 and 16 of the Civil Code provided that citizens suffering from mental illness to the extent that they were not responsible for their actions and citizens who had abused alcohol or drugs to the detriment of their family should lose their legal capacity.

33. Mr. SUDARIKOV (Union of Soviet Socialist Republics), referring to article 12 of the Covenant, said that freedom of movement, including the right to leave the country, was guaranteed in the Soviet Union. The question of exit from and entry into the USSR had been the object of a political campaign with questionable objectives. The situation with respect to freedom of movement was clearly set forth in the Soviet media and by Soviet official bodies. The assertion that millions of persons wanted to leave the Soviet Union was a myth: that was not the case and never had been. The decreasing number of persons who did, however, could request exit visas from the Ministry of the Interior. The departure of a citizen for permanent residence abroad naturally required clarification of such matters as his family situation, his property relations with other citizens and his employment situation. Such clarification took time, but subsequently he would be allowed to leave. Most of those who requested visas did leave. Those who did not receive visas had their cases considered by the appropriate bodies. The need to protect State security, public order, property and the family rights of other citizens, and conviction for crimes, were the reasons for the few refusals to grant permission to leave, all of which were fully in accordance with article 12 of the Covenant and consistent with Soviet domestic legislation. Furthermore, no restrictions were placed on the rights of people who applied for exit visas: they did not lose their jobs and were not evicted from their homes. In fact, many people wanted to enter the USSR but encountered obstacles in the countries in which they lived.

34. A number of speakers had raised the question of the rights referred to in articles 18, 19, 20, 21 and 22 of the Covenant, and he wished to stress in that connexion that all of the provisions of those articles were fully reflected in Soviet legislation, as was clear from the Soviet Government's report (CCPR/C/1/Add.22). The report could not include all of the relevant provisions of Soviet legislation, however, and mentioned only the most important ones. It was true that the rights in question were viewed within the context of promoting the interest of the people and building communism, but the meaning of that context was perfectly clear to those who were familiar with Soviet reality. Everyone in the Soviet Union could work in accordance with his abilities, and there were no parasites in the country. In a community whose aim was the building of communism, it was natural that the norms and goals of the individual must conform to those of society as a whole. The Soviet Union was a unified, single society and its laws derived from the people and were framed in their interests. Bourgeois ideologists might look for contradictions in that society, but there were none. There were no competing political parties in the USSR

because there were no competing classes. The concept of free trade unions was firmly anchored in Soviet society. All trade unions in the USSR were free and membership in them was voluntary. The right to organize trade unions was guaranteed.

35. There were many public organizations within the Soviet Union and individuals often belonged to a number of them. Members could hold meetings, speak freely, criticize and make proposals. Any point of view could be voiced in the Soviet press, which, through some 10,000 newspapers and journals all over the country, offered many possibilities for freedom of expression.

36. With respect to freedom of conscience, he noted that article 52 of the Soviet Constitution stated that citizens of the USSR were guaranteed freedom of conscience, in other words, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious ground was prohibited under that article, which also provided that, in the USSR, the church was separated from the State, and the school from the church. No restrictions were placed on religious believers or on those who attended religious services, all of whom enjoyed full freedom of conscience.

37. In reply to a question raised by Mr. Mora Rojas concerning freedom of cultural expression and creativity and the application of the principles of socialist realism to literary and artistic works, he referred to article 46 of the Soviet Constitution, which stated that citizens of the USSR had the right to enjoy cultural benefits, and that that right was ensured by broad access to the cultural treasures of their own land and of the world that were preserved in State collections; by the development and fair distribution of cultural and educational institutions throughout the country; by developing television and radio broadcasting and the publishing of books, newspapers and periodicals, and by extending the free library service; and by expanding cultural exchanges with other countries. The Soviet Union could boast many artistic personalities of world-wide reputation to show that full freedom of artistic activity and creation were guaranteed, and it was clear that expanding cultural exchanges with other countries, including Western ones, were a reflection of its recognition of cultural freedom.

38. In connexion with article 22 of the Covenant concerning the right of association, a number of speakers had asked about the role of the Communist Party. Article 6 of the Soviet Constitution stated that the leading and guiding force of Soviet society and the nucleus of its political system, of all State organizations and public organizations, was the Communist Party of the Soviet Union (CPSU), and that the CPSU existed for the people and served the people. The Communist Party did serve the people and served them well. It included the best people in the country and has 16 million members, 25 per cent of whom were women, showing that women did indeed enjoy political rights in the country. Communist Party members did not enjoy any special rights and privileges. The Communist Party did not pass laws, but provided guidelines for the domestic and foreign policy of the Soviet Union and for the creativity of the Soviet people. It reflected the will of the people and all of its organizations and, as was clearly stated in article 6 of the Constitution, functioned within the framework of the Constitution. The political directives provided by the Communist Party acquired legal force only through appropriate legislative enactments. Furthermore, the Party recommended officials for public positions, but did not appoint them, and it did not interfere with the judiciary in any way. Its role was therefore consistent with the provisions of the Covenant.

39. The procedure for the submission of candidacies at elections referred to by Mr. Lallah, was specifically defined in the Elections Act of 6 June 1978. Candidates came forward at general meetings of workers' collectives, at military bases and elsewhere, and their candidacies were registered by local electoral commissions. In the vote, any elector had the right to strike a name from the ballot-paper and write in his own candidate.

40. The system of people's control bodies had existed since the very inception of the Soviet State, but its legislative status had been defined only in 1968. People's control bodies ensured the masses the right of control in a number of economic and political areas. People's control committees elected all over the country were subordinate to a State-wide Committee, forming a system designed to supervise the implementation of the law by officials and to respond to complaints. Their role was to combat bureaucracy and red tape and was anchored in the new Constitution.

41. In reply to questions raised in connexion with article 27 of the Covenant, relating to national minorities, he stressed that under the Constitution all citizens regardless of nationality, including Jews and ethnic Germans, were equal before the law, and that attempts to incite national hostility were punishable by law. Anti-Semitic propaganda did not exist, could not exist, and had never existed. Jews and ethnic Germans were treated like all other nationalities in the Soviet Union, and it should be remembered that the Soviet army had routed fascism in Germany and rescued countless Jews from extermination.

42. In connexion with Mr. Opsahl's question regarding world public opinion concerning human rights, he wondered who really represented public opinion. The bourgeois press could not be said to do so, in fact it did not even represent national opinion. The USSR was a signatory to all the relevant human rights instruments, something that could not be said of the Western countries, even the largest one. Furthermore, the USSR had submitted a comprehensive report to the Human Rights Committee and had co-operated with it in answering questions. The Human Rights Committee held open discussions which anyone could attend, and its documents were accessible to everyone. The Soviet Union had nothing to hide from world public opinion, was proud of its record in human rights, and therefore welcomed any opportunity to make that record known.

43. Sir Vincent EVANS asked whether the Soviet statements could be made available to the Committee.

44. The CHAIRMAN said that the statements would be reflected fully in the summary record of the meeting.

The meeting rose at 1.10 p.m.