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TRUSTEESHIP COUNCIL

TWENTY-FIFTH MEETING OF THE THIRD SESSION

(Extracted from the Sound Track)

Lake Success, New York  
Thursday, 15 July 1948, at 2:00 pm

President: Mr. Liu CHIEH

(China)

The PRESIDENT: I declare open the twenty-fifth meeting of the third session.

#### EXAMINATION OF THE REPORT ON NEW GUINEA

Mr. CARPIO (Philippines): Yesterday we discussed the question of a centralized administration for Papua and New Guinea particularly in connection with the new Bill which apparently links this question of a centralized administration with the rather incidental problem of the ratification of the trust agreement. I have been a little amused by the attitude I seem to have perceived among certain members, which I might in my lighter moments perhaps describe as a mutual defence or assistance club. Since I had no chance to say anything about the matter yesterday I should like to ask a few questions on the subject.

I note, in document T/138/Add.1, page 4, the following statement:

"It was rather that in the existing circumstances with Papua dependent upon the Australian Government for a grant to meet a deficit in its budget and New Guinea on the other hand self-supporting, it was contended by some that an administrative union would result in Papua benefiting from the resources of the mandated territory."

In connection with that statement, I should like to ask how far was that contention valid under the mandate system? Was there or was there not any validity in that contention then?

Mr. HALLIGAN: There was certainly no validity in that contention, it was just a contention made by some people, but so far as the Government was concerned it had no validity whatever.

Mr. CARPIO (Philippines): It is true, however, that at that time before the war this centralized administration was planned? Also that Papua was dependent on the Australian Government for its administrative operations while New Guinea was self-sufficient?

Mr. HALLIGAN: The revenue of Papua was not sufficient to meet the annual expenditure and a grant was made by the Commonwealth Government towards the expenses of the Papuan administration to the extent of 42,000 pounds per annum. In the case of New Guinea the revenue, particularly from about 1928 when the gold fields were discovered, was sufficient to meet the expenditure of the New Guinea administration and no annual grant was made by the Commonwealth Government towards the expenses of the administration.

Mr. CARPIO (Philippines): You said a while ago that there was no validity in the contention that Papua would have been benefited from the resources of New Guinea by the operation of the centralized administration plan. Was there anyone who was going to benefit by that centralized administration under the mandate system?

Mr. HALLIGAN: Both territories would have benefited, and particularly the territory of New Guinea, from the more effective administration which would have been possible by the combined service.

Mr. CARPIO (Philippines): On page 20 of the same document section 33 paragraph (1) of the Bill is reproduced, and it says:

"Except as provided in any Act, an Act or a provision of an Act (whether passed before or after the commencement of this Act) shall not be in force as such in the territory or any part thereof unless expressed to extend thereto.

"(2) The application, of its own force, in or in relation to the Territory or any part thereof, of any Act or Imperial Act shall not be affected by any Ordinance."

Will the special representative please give us more details as to the possible application of the two paragraphs I have just read, especially in connection with the term "Imperial Act". What Imperial Act is envisaged in these provisions?

Mr. HALLIGAN: The Acts of the Parliament of the Commonwealth of Australia do not extend to the territory unless the particular Act contains a provision that it does extend to the territory. That is the explanation of the first part of it. The second part, regarding the application of its own force of any Act or Imperial Act, conveys that if an Act of the Commonwealth Parliament is extended to the territory it cannot be amended by a local ordinance. The Act goes into the territory of its own force and any amendments made to that Act by the Commonwealth Parliament would automatically extend to the territory, but local ordinances cannot affect or in any way amend that Act. As for Imperial Acts, one that comes to my mind is the Merchant Shipping Act, for instance. The Imperial Merchant Shipping Act may extend to the territory, but its application there cannot be altered by local ordinance.

Mr. CARPIO (Philippines): Do I understand that you call Acts passed by the Australian legislature Imperial Acts? How is the term "Imperial Act" brought into this particular legislation? Would you call Australian laws Imperial Laws? I want to find out the source of the term "Imperial Act" and why it came into a piece of legislation proposed to be passed by the Australian legislature.

Mr. HALLIGAN: Acts of the Commonwealth Parliament are not Imperial Acts. Imperial Acts referred to would be Acts of the Parliament of the United Kingdom, and such an Act would be, as I have mentioned, the Merchant Shipping Act, whereby ports of registry are established in various places for all vessels. If that Act were extended to the territory it would provide a port of registry for all vessels in the territory.

Mr. CARPIO (Philippines): Therefore, in the administration of New Guinea, do I understand from your reply that you do not envisage the application only of the law we are now considering or the laws of the Australian legislature

but also laws passed by the United Kingdom? Is that correct?

Mr. HALLIGAN: No, it is not intended that laws of the United Kingdom should be applied. The only instance I could quote is the one I have mentioned.

Mr. FORSYTH (Australia): Perhaps I may be permitted to add to Mr. Halligan's answer. I take it that the intention here is to allow such Acts of the United Kingdom Parliament as have been permitted to remain in force in Australia to be applied to the territory, not on the basis of their being Acts of the United Kingdom Parliament, but on the basis that they form part of the law of Australia in so far as they have been permitted to remain in force. I would refer Mr. Carpio also to Article 4 of the Trusteeship Agreement for New Guinea, which gives the Australian Parliament the same powers of legislation, administration and jurisdiction in and over the territory as if it were an integral part of Australia and permits it to apply to the territory such laws of the Commonwealth as it deems proper. For this purpose Imperial Acts would be taken to be laws of the Commonwealth, in so far as they have remained in force in Australian practice.

Mr. CARPIO (Philippines): I can easily see the explanation given by the representative of Australia, but as I read Section 33 (1) it seems to mean that such Imperial Acts would not be confined to Imperial Acts already in force in Australia but Acts which may hereafter be enacted by the United Kingdom. My question therefore is, do I understand that in the administration of the territories of Papua and New Guinea under and by virtue of the Trusteeship Agreement it will not alone be the particular enactment we are now considering which will be in force or laws passed by the legislature of Australia but also such laws passed by the United Kingdom as the United Kingdom or Australia may see fit to enforce in New Guinea?

Mr. FORSYTH (Australia): That would be so only to the extent specifically provided for it by legislation, and that is made clear in the preceding paragraph - Section 33 (1).

Mr. CARPIO (Philippines): I had that paragraph in mind, more especially the last portion thereof which says "unless expressed to extend thereto." In other words, the expression of extension is something which does not lie with the Australian Government, but is in the provisions of the Imperial Act itself. Is that correct?

Mr. FORSYTH (Australia): I did not draft the Bill, but my understanding of Sub-section 1 of Section 33 is that it would require legislation by the Australian Parliament to extend such acts to the territory.

The PRESIDENT: May I say that I believe that interpretation is the usual one in all the self-governing dominions of the British Commonwealth. In other words, an Imperial Act will not by itself be applicable unless it remains on the statute book of the dominion itself. Is that correct?

Mr. FORSYTH (Australia): That is certainly the case for this territory.

Mr. CARPIO (Philippines): Of course, that might have been in some cases, but I am familiar with certain legislation passed by the United States Congress while the Philippines was under the administration of the United States of America, where the very Congressional Act itself makes express provision for its application to the Philippines. For that reason, I was interested in finding out to what extent Imperial Acts have been applied to the territory of New Guinea.

In my first reading of this provision, I found it queer that, while Australia is supposed to be the administering authority of the territory, there should be mention of the application of laws passed by the United Kingdom in the administration of New Guinea.

On page 24 of document T/138/Add.1, section 48, sub-section (1), there is the following provision:

"Subject to this Act, the Legislative Council may make Ordinances for the peace, order and good government of the Territory."

Would the Special Representative of the administering authority please give us the extent and scope of the application of this particular provision?

Mr. HALLIGAN: That gives the Legislative Council full authority to make ordinances for the peace, order and good government of the territory. The only other legislation, outside of legislation to be passed by the Legislative Council when it is in operation, would be an act passed by the Parliament of the Commonwealth. Otherwise, the Legislative Council would be the legislative body for the territory.

Mr. CARPIO (Philippines): But am I correct in my understanding of this particular provision, that it is confined to peace, order and good government -- in other words, it is just the machinery of government rather than the functions of government that would be envisaged in this legislation?

Mr. HALLIGAN: The term "peace, order and good government" encompasses everything.

Mr. CARPIO (Philippines): On page 25, section 52, sub-section (b), there is the following provision:

"An Ordinance relating to the granting or disposal of lands, of the administration or of the Crown."

What "Crown" is envisaged in this provision?

Mr. HALLIGAN: In the case of the trust territory, the lands are described as lands of the administration; in the case of Papua, they are described as Crown lands -- Crown lands in Papua and administration lands in the trust territory.

Mr. CARPIO (Philippines): I would call the attention of the Special Representative to page 33 of this same document, sub-section (a), which reads:

"The Minister, with the concurrence of the Treasurer of the Commonwealth, may make arrangements or agreements for any purpose likely to promote the development of the resources of the Territory or the welfare of its inhabitants, and any sums required by the Minister for the purpose of any such arrangement or agreement shall be paid out of moneys appropriated by the Parliament for that purpose."

Would the Special Representative explain what was the motive or philosophy behind that provision -- or whether any form of exploitation is envisaged in it?

Mr. HALLIGAN: There is certainly no form of exploitation envisaged or even thought of. The provision is put there to cover an instance such as if the Government desired to make special arrangements for the development, say, of the timber resources of the territory, which would require the provision of moneys by the Commonwealth, in conjunction with some other organization. This provision would enable the Minister in charge of the territory to enter into such agreements, and to the extent that money is required to carry on the project, it would be appropriated by the Parliament of the Commonwealth of Australia.

Mr. CARPIO (Philippines): But the Special Representative stated earlier, with regard to the consideration of section 48, sub-section (1), that the ordinances for peace, order and good government of the territory envisage all functions of government. Why now, in this particular section 65, sub-section (a), is there an exception to that general function of the local Legislative Council and a special power given to the Minister?

Mr. HALLIGAN: The provision of section 48 commences with the words: "subject to this Act". This Act of the Commonwealth Parliament is administered by the Minister for External Territories, I said that, in addition to the legislation to be passed under that section, the Commonwealth Parliament could pass separate acts on any particular subject in relation to the territory.

Mr. CARPIO (Philippines): On page 34, section 66, sub-section (2)(a), there is a provision for the creation of an institution under the name of "Australian Institute of Pacific Administration", for the purpose, among other things, of providing "special courses for the education of officers and prospective officers of the Territory, and of such other persons as are prescribed."

I should like to have some further explanation on the extent of this particular provision.

Mr. HALLIGAN: The provision is designed to provide training for officers and candidates for appointment to the territory, so as to produce a staff that will be capable of carrying out the highest functions of the administration. It says "officers". We are bringing to this school officers who have already served in the territory and are giving them a course of instruction better to fit them for the posts. We are also bringing appointees who are selected for positions in the administration and who receive a course of training at this school for a short period, before they take up duty in the territory.

Mr. CARPIO (Philippines): This is not some sort of training school for teachers, is it, or is it only for clerks or other higher officials of the administrative machinery?

Mr. HALLIGAN: It is intended to cover all officers, and its primary object is to teach subjects that would have particular relation to administration and to give instruction in native administration.

Teachers who are trained as such also receive this further training to fit them for their appointments in the territory where the indigenous population predominates.

Mr. CARPIO (Philippines): I want to be more definite, so I shall put the question squarely:

Do I understand that this Institute of Pacific Administration would be tantamount to a training school for teachers in the school system of New Guinea, or is it confined to routine administrative officers other than teachers?

Mr. HALLIGAN: It covers all officers. The majority of the officers to be trained there would be what are described as patrol officers, district officers and assistant district officers. They are the officers who are stationed in the district and who have close and constant contact with the native inhabitants. However, agricultural officers, medical officers and teachers, in addition to training in their particular fields, also receive this training, which has special relation to native administration.

Mr. CARPIO (Philippines): On page 36 of document T/138/Add.1, which obviously is the last portion of this intended statute, there are mentioned certain fundamental theories -- under section 71, sub-sections (1) and (2) -- with regard to slave trade being prohibited in the territory, and also forced labour. However, outside these two enumerations, I have seen nothing in the whole length and breadth of this statute which enumerates the basic rights of the human individual, the type of thing which we

ordinarily find in modern constitutions, usually called "Bills of Rights".

Would the Special Representative tell the Council whether there is any portion of this statute, which apparently is envisaged as the constitution of the territory, which coincides with anything like a Bill of Rights?

Mr. HALLIGAN: This is the constitution for the territory; that is the purpose of the Bill. The foundation of the Bill is the Charter and the trusteeship agreement, which forms a portion of the Bill and is annexed thereto. In the Preamble, it is stated that the Australian Government has undertaken to administer the territory in accordance with the provisions of the Charter and the trusteeship agreement.

(Due to a defect in the sound recording equipment, one minute of the ensuing proceedings did not record.)

Mr. CARPIO (Philippines):

(The first part of this statement was not recorded)

Still, a man or a woman in New Guinea can still feel assured that they would be guaranteed fundamental freedoms and human rights. Is that correct?

Mr. HALLIGAN: Absolutely.

Mr. CARPIO (Philippines): Will you please state, in view of your manifestation of this proposed bill now pending consideration by the Australian legislature, whether in this bill any mention whatsoever is made of that basic policy with regard to education, because I do not see it. I have been scanning the whole of this document, but I have found nothing about education. Perhaps there might be, but I should like you to point it out to us.

Mr. HALLIGAN: The "bill" as we call it is the Constitution. That is, it is the foundation of the laws to be made in the territory. The laws that will flow from that bill will cover such matters as education, and every activity of the administration would be made by ordinance, made pursuant to the authority granted in the bill.

Mr. CARPIO (Philippines): In that governmental law of the territory, no mention is made of education?

Mr. HALLIGAN: No mention is made of education or any other of the subjects. This is a general fundamental law under which all the law will be passed, and from which all authority flows to make such laws.

Mr. CARPIO (Philippines): Yesterday, the representative of Mexico mentioned his peculiar reaction after reading this proposed statute, a reaction to the effect that it seems that the Australian Government has considered this trust territory as its own territory. I make mention

of this because I had the same reaction. For instance, on page 9 of this document, the various whereases there start from the mandate system and continue up to the Trusteeship Agreement. It seems to me that the emphasis has been such that the trust territory is almost absolutely under the Australian Government.

Then further, during yesterday's deliberations the representative of Australia voiced before the Trusteeship Council the very question that I was cogitating in my mind in view of your manifestations. I think it was the representative who stated that the basic principles and objectives of the Trusteeship System, which is the standard used in the administration of trust territories, are the same basic principles and objectives that are also being followed and worked out by Australia in the administration of a colony, particularly in the case of Papua. In the course of this, the representative of Australia voiced the question that, if this is so, why should not Australia bring into the scope of the International Trusteeship System that colony of Papua.

I listened with the greatest of interest to whatever answer the representative of Australia might have wanted to give to the question which he himself propounded, but he did not give any answer except to say that to consider bringing Papua under the aegis of the International Trusteeship System would be outside the competence of the Trusteeship Council. If this is the only technical objection, I am going to ask this question, and the special representative is free to answer it if he so desires. When I asked a similar question of the representative of the United Kingdom, he was given freedom to answer it or not, but he did not answer it. He refused to answer it.

My question, therefore, is this. If it is true that in the administration of a colony like Papua, the basic objectives and principles followed in the administration of a trust territory are likewise put into force, is not this about the proper time for the administering authority of these two territories which it is proposed to put under a centralized administration -- that is, Papua and New Guinea -- to bring Papua under the International Trusteeship System so that the suspicion that seems to have induced some questions yesterday might forever be erased, because then, since New Guinea is under the Trusteeship System, the same rules and principles would govern.

Could the special representative give us an idea of whether the Australian Government has any objection towards bringing Papua under the International Trusteeship System, in view of the number of similarities of objectives in its administration with that of New Guinea, which is a trust territory?

Mr. FORSYTH (Australia): I have asked to speak because I feel this is a question which is more proper for the member on the Trusteeship Council to deal with than for the special representative from the administration of the territory. The answer could be given that the question should be ruled out of order. I mean that one could suggest that it could be ruled out of order. I do not feel disposed to do that. The question is an interesting one, and I should like to give it an answer, but I should not like to give that answer if it were to imply that Papua is a proper subject for discussion or investigation in this Council. Unless I have that, I shall not proceed any further.

The PRESIDENT: The representative of the administering authority is free to answer or not. In regard to the question being out of order or

otherwise, I should like to say this. Papua, being under the sovereignty of the administering authority, should be outside the competence of this Council, but if Papua is linked with the trust territory, as it is now proposed to do, I do not see how the President can rule out any reference to a territory which is identified and combined with a trust territory.

The question that is asked may have some rhetorical value, and, as I said, the administering authority's representative is free to answer or not to answer. But if I were asked the same question, whether as representative of an administering authority or not, I would feel that it was not a question which either representative can answer. Under the Charter, there are territories which can be voluntarily placed under the Trusteeship System, but before a government desires voluntarily to do so, I do not see how any representative on the Council or any special representative can give a reply on behalf of the government. It is for that reason I have not ruled the question out of order.

Mr. FORSYTH (Australia): In view of the President's statement on the position, I would prefer not to make any remarks on the subject.

Mr. CARPIO (Philippines): I should just like to make a few remarks in connection with that question of mine. One of the most fundamental objections to this matter of centralized administration of Papua, which is a colony, and of New Guinea, which is a trust territory under the United Nations International Trusteeship System, is the fact, as I have pointed out on a great many times during the past, that a colony is primarily governed for the benefit of the colonial power. It is an affair of the colonial power alone, and no one can interfere in the administration thereof. In other words, it can be supposed that if human nature remains as it is constituted at present, both with regard to individuals and to nations,

where self-interest must be paramount and the principal cause of our machinations,,I would say that a colony would be administered for the particular purpose and interest of the colonizing power. But that is not so with regard to a trust territory, because a trust territory is governed on the international level. It is under the supervision of the United Nations and administered for the benefit of the indigenous inhabitants.

Yesterday, mention was made by the representative of Australia that in governing Papua the same objectives and the same principles are followed as in the administration of a trust territory, and so he raised that question himself, but never answered it. He gave as his reason the fact that consideration of Papua was beyond the competence of the Council, and yet we have a provision of the Charter to the effect that mandated territories or other colonies could be brought under the aegis of the International Trusteeship System if the colonial power wanted to bring it thereunder.

If the only objection, therefore, to the consideration of Papua by the Trusteeship Council is lack of competence, I consider that this is an opportune time to give this Council competence to consider it by having it brought under the aegis of the International Trusteeship System. That is the very reason I asked that question, and more so because it is involved in the administration of a territory which is within our competence. But I am willing to take the refusal to answer on the part of the representative of Australia, and I will not press the matter further.

Mr. FORSYTH (Australia): I have just one brief correction to make. I did not ask the question yesterday: Why cannot Papua be brought under the Trusteeship System, or an equivalent question. I said the question

had been raised. I may have misunderstood the remarks of one of the speakers who preceded me, but I did understand that he had raised this question. It was not I who took the initiative, and it is possible that I was mistaken in my interpretation of what one of the previous speakers had said. That is my correction of Mr. Carpio's understanding of the provision.

I should just like to add that I do not want to leave the Trusteeship Council with the impression that I want to stand merely on formal rules. I am perfectly willing to discuss with any member of the Council privately this question which Mr. Carpio has raised. I would be very willing indeed to discuss the matter thoroughly with him outside the Trusteeship Council.

Mr. CARPIO (Philippines): I will just ask one more question on this proposed bill on centralized administration. Since the approval of the Trusteeship Agreement covering New Guinea, which was in 1946, the Government of Australia has not seen fit to ratify the Trusteeship Agreement.

On the other hand, it has seemingly waited until this plan of centralized administration was conceived and decided upon and then mixed the two legislations up inextricably. I do not know whether that was deliberate, accidental or purely coincidental. Will the special representative tell us why between 1946 and 1948 no opportunity was made to ratify the Trusteeship Agreement, and why, at this late date, it should have been brought about only in the form of an inextricable part and parcel of the plan of centralized administration?

Mr. HALLIGAN: It was necessary to bring forward a bill which would provide for the future administration of the Territories, because, when civil administration was resumed in 1945, it was only on a provisional basis. In preparing the bills, there was, first of all, the question of the ratification of the Trusteeship Agreement, which could have been brought forward in the form of a small bill. But following that another bill in some form would have been necessary to provide for the future government of the Territory. The Government considered that the most appropriate way to do both things was to have one bill providing for the ratification of the Trusteeship Agreement and setting down the necessary provisions for the future government of the Territory. This is the bill that makes those provisions.

Mr. CARPIO (Philippines): But, knowing how anxious the world was over the deliberations of the United Nations, especially on questions concerning dependent peoples and trust territories, and simple as the act of ratification would have been -- it could have been formulated in half an hour and approved in another two minutes -- did the Australian Government not consider that to satisfy the anxiety of the public in regard to the administration of New Guinea, it could have passed the ratification act sooner than this late in 1948. Instead of involving it in this intricate statute of centralized administration?

Mr. HALLIGAN: It would have been possible for a small bill to have been passed had the Government decided that was the best course to follow. But the Government considered that this course whereby the trusteeship agreement is ratified and forms an important basis for the whole act was the better way to do it. There was no discourtesy on the part of the Government or any want of enthusiasm for the Trusteeship Agreement.

Mr. FORSYTH (Australia): Would the President permit me to make a few remarks to clarify this question of ratification?

The Trusteeship Agreement is an international agreement. It has the status of a treaty. It is entirely within the power of the Commonwealth Government to enter into such an international engagement, and that binds the Government of Australia. That was the course followed. It was not necessary to pass a formal instrument of ratification for the reason that the terms of the agreement were proposed by the Government of Australia to the United Nations General Assembly, and they were approved by the United Nations General Assembly on 13 December 1946. From the point of view of the Government of Australia, and I had always understood from the point of view of the United Nations, the Trusteeship Agreement took effect from that date. Having been proposed by Australia on the one side and accepted and approved by the General Assembly on the other, it immediately became an international treaty and an instrument in itself. It did not require formal ratification in the technical sense.

Here, we have a somewhat different thing. The putting into effect of the Trusteeship Agreement in the Territory involves the expenditure of money, for example. It involves consequential legislation. Thus it involves the Legislature of the Commonwealth of Australia in taking some action on the basis of the international agreement already arrived at and

effect. It was for that reason that the clause giving a formal confirmation and approval by the Legislature of Australia, as distinct from the Executive, was put into this Act. It was also done, I think, for the sake of clarity and certainty. The legislation itself mentions, and indeed incorporates into itself, the international instrument which the legislation is designed to put into effect. One might call this clause a clause of ratification in a loose sense, but it is not a clause of ratification in the technical sense. In other words, the entering into effect of the Trusteeship Agreement as an international treaty did not depend upon this clause. It entered into effect when the Commonwealth Government proposed the treaty, or the terms of the Agreement, and those terms were approved by the General Assembly.

The fact is that New Guinea has been dealt with as a trust territory from 13 December 1946, as the special representative can confirm. The fact is that we presented a Report to the Trusteeship Council on the year 1946-47, roughly half of which was the first six months of the application of the trusteeship system to the Territory.

I hope that that clarification has in fact been a clarification.

The PRESIDENT: I am very glad to have this clarification by the representative of Australia, particularly in view of the fact that I had read a report that appeared in a publication known as the Pacific Islands Monthly, dated August 1947, which said that the Department of External Territories was said to have expressed the view that because the Commonwealth Parliament had not ratified the Trusteeship Agreement, the Territory of New Guinea should continue to be called the Mandated territory. I am, therefore, glad to have this clarification from the representative of the administering authority which explains that the Commonwealth Government did not require such parliamentary ratification to recognize the validity of the Trusteeship Agreement.

Mr. HALLIGAN: I have some recollection of the report which the President mentioned. I think it was attributed to the Department of External Territories. But that was a press report and had no substance and no official approval. The view taken officially is the one expressed by Mr. Forsyth. We have regarded the former Mandated Territory of New Guinea as a trust territory from 13 December 1946, the date on which the Trusteeship Agreement was approved by the United Nations.

Mr. CARPIO (Philippines): I want to express my appreciation of that expression of opinion on the part of the representative of Australia, because I assumed all along that, as in other nations, a subsequent ratification was necessary before a signed treaty came into operation. I assumed that it was the same as the situation which the representative of the United States told us about when he said that when he joined the Samoan Mission, the United States was not an administering authority because, although the Trusteeship Agreement was then approved by the United Nations, the United States Congress had not ratified it. It is for this reason that we want clarification on all these points. We do not want to be hanging in the air as to the reasons and the purposes which made a ratification so belated in forthcoming. It is for that reason that I appreciate the clarification by the representative of Australia.

For the time being, I am through with this paper in connection with the centralized administration. I shall have no questions until we go further to the other functional parts of the Report.

Mr. SAYRE (United States of America): In view of the discussion of this question of administrative union yesterday, I find myself somewhat puzzled, and I should like to put one further question with regard to this problem which seems to me to be of particular importance. I think we are all clear as far as the fundamentals are concerned. Article 5 of the

Trusteeship Agreement provides that the "administering authority shall be at liberty to bring the Territory into a customs, fiscal, or administrative union or federation with other dependent territories" and so on, provided that such a system would serve the interests of the Territory, etc. The language of Article 5, which is the controlling factor, does not permit a political union. The language is: "shall be at liberty to bring the Territory into a customs, fiscal or administrative union or federation ...".

When I asked Mr. Halligan the question whether this constituted an administrative union but not a political union, Mr. Halligan, you will remember, was quite clear in saying that in his opinion it was an administrative and not a political union. What puzzles me is this: What features are possessed by political unions which this particular union does not possess?

I look, for instance, at Article 8 on page 14. I see that a common name is chosen for both the Territory of Papua and the Territory of New Guinea.

I look at Article 13, and the following paragraphs, which appear on page 15 of document T/138/Add.1, and I see that there is a common Executive for both Territories. The Executive is the Administrator.

I turn to Article 35 and the following articles, and I find that, so far as legislative provisions are concerned, there is a common Legislative Council. And Article 48 makes it clear that the Legislative Council has legislative power applying equally to both portions of this Territory.

In looking at Part VI, paragraph 58 of the Report, I find that both territories possess a common judicial system, a system which is applicable, alike and equally, to both territories in common. When I ask myself about customs arrangements, it is pretty clear, I should imagine, that a common custom arrangement is certainly permissible under this Act and, I should imagine, is envisioned under the Act.

When the question was raised yesterday about immigration, again, it seemed clear that there is nothing in the Act to prevent freedom of immigration, back and forth, between Papua and New Guinea. There is nothing wrong about that, and, in fact, Mr. Halligan answered that he could not, of course, tell what the future immigration policy would be, but that it seemed not unlikely, if I remember his words, that there would be no immigration bars between the two territories. That is perfectly proper.

Then I presume that the Act, as proposed, allows common taxation as among the two territories, that is, over the inhabitants of both territories alike. As was pointed out yesterday, paragraph 11 even gives the power to change boundaries. Paragraph 11 allows the Governor-General, by proclamation, to define the provinces within both of these areas by such names as he chooses, and with such boundaries as are specified in the proclamation.

What puzzles me is this: In view of all those powers, what features does a political union possess which this proposed union does not possess? If I may put that question to Mr. Halligan, I should be very much obliged to have some clarification.

Mr. HALLIGAN: All those matters which were mentioned by Mr. Sayre, and the sections of the Act to which he referred, I think, in my opinion, would be matters of administration for the government of the territory and, as such, are administrative matters, and this would then be an administrative union.

I should like to mention one particular point which has been mentioned before, and that is in relation to the provisions of paragraph 11, relating to provinces. That is a provision which has been put in to meet a possible eventuality that we can see in relation to administrative facilities along the boundary of the trust territory and Papua. If I might just refer to the map for a moment, it might clarify what is in our mind and convey to the Council the idea behind such a provision.

This part of the territory (indicating) is the boundary of the territory along here (indicating) between Papua and New Guinea, extending right up there (indicating). All of that part (indicating) is the trust territory and then, under here (indicating) is the territory of Papua embracing these islands (indicating). Here (indicating) is the northern part of Australia.

This boundary is, as has been mentioned by a number of speakers, just a line on paper. There has been no effort to determine that line on the spot. Now the nature of the country here (indicating) is that there are very high mountain ranges running from ten, thirteen and fourteen thousand feet along here (indicating).

The water sheds of the Papuan rivers (indicating) -- the water shed there (indicating), coming off these high mountains leaves, on this part here (indicating), a plateau that is allied to this plateau, about five thousand feet. This area is accessible from this side (indicating) but almost inaccessible from here (indicating).

Therefore, the Council can see the possibilities in the matter of administration, and the administration of that particular area (indicating) there/might be facilitated by that little portion being put into a province that would have its administrative sub-head. That is the purpose of province control, say from the bed.

The idea behind provinces so far -- and that has not been considered to conclusion -- is that it may be necessary to decentralize not authority, /to central it in the headquarters or wherever they may be -- and Moresby or Lae--/ it may be necessary to have an assistant administrator scattered around, in which case that administrator would have authority within the province, if it is so decided to proclaim it.

Mr. FORSYTH (Australia): I wish to say a few words in reply to Mr. Sayre's question. He asks the Special Representative to tell us what features of the bill show it is not a political union, that/<sup>it</sup> is an administrative union. Mr. Sayre cited a number <sup>several of</sup> of passages from the bill to/which I should like to draw attention, and which perhaps throws a somewhat different complexion on the nature of the association between the two territories.

Let us look at page 9 of the Report, for example. The fourth paragraph reads:

"And whereas Chapter XI of the Charter of the United Nations is applicable to Australia's administration of the territory of Papua..."

The next paragraph reads: "And whereas, in accordance with the provisions of Chapter XII of the Charter..." that paragraph concerns New Guinea.

The sixth paragraph reads as follows:

"And whereas Australia has undertaken to administer the territory of New Guinea in accordance with the terms of the trusteeship agreement..."

There are clear distinctions there between the two territories, although they are to be administered by the same administrative machinery.

On page 10 of the Report, the middle paragraph states: "And whereas the Government of Australia is of opinion..." that it is advisable and is not inconsistent with the basic objectives, to administer the territory of Papua and the territory of New Guinea in an administrative union, ones, however, maintaining the identity and status of the territory of New Guinea as a trust territory. Now those, I admit, are only parts of the recital in a preamble. Nevertheless, they are not without some significance, as describing the intentions of those who enacted this legislation, or at least they propose to enact this legislation.

Let us go on, however, to paragraph one of the bill proper. The Act is cited as the Papua and New Guinea Act and not the Papua-New Guinea Act, and not the Act for Australia New Guinea, as the area has on occasion colloquially been called. The Act is careful to write in the names of the two territories, not as if they were one territory but in accordance with the purposes of the preamble, because they remain two separate territories. That is paragraph 1.

Page 12 of the Report deals with definitions. We have three definitions towards the foot of the page, which reads:

" ' the Territory of New Guinea ' means the Territory of New Guinea as described in the Second Schedule to this Act " -- and there is a schedule to describe that territory.

Therefore, there can never be any doubt that there does exist that entity. The same goes for Papua. Then there is a definition of the two territories together, for purposes of this Act, for purposes of the administrative union, but not, as the preamble makes clear, for the purpose of suppressing the identity of the two territories which are being administered in association.

Mr. Sayre asked about the name of the territory, but it will be seen that the name is to be used for purposes of this Act, that is to say, for purposes of administrative union. Page 14, paragraph 10 -- a provision to which attention has already been called -- reads:

"There shall be expended in each year, upon the administration, welfare and development of the territory of New Guinea"---not the whole territory, not Papua, but the territory of New Guinea -- "an amount which is not less than the total amount of public revenue raised in that year in respect of the territory of New Guinea."

With regard to paragraph 11, Mr. Ealligan has made the comment which I had in mind on that question of provinces. I submit that those examples -- and there are others throughout the body of the Act -- make it quite clear that what the Australian Government has in mind is to set up a machinery for administering two separate territories in common, by means of the machinery. It is a practical administrative matter. It is not a matter of joining the two territories politically and constituting them as one political unit. Indeed, the contrary is true, as any thorough reading of the bill will show.

Mr. SAYRE (United States of America): I appreciate very much the remarks and the explanations which have been given. I think none of us can question the sincerity of the Australian Government in its assurances that the identity of New Guinea will be preserved. That is

specifically stated in the paragraph on the top of page 7 of the Report where, to read the language of the document, the Australian Government

"...gave a definite assurance that any action taken to implement administrative union under the provisions of Article 5 of the Trusteeship Agreement would not involve the loss by New Guinea of its identity as a separate territory administered under the provisions of the international trusteeship system."

The following sentence gives a fresh assurance, that that assurance will be honoured by the Australian authorities. I think none of us question the sincerity of the Australian Government in this matter, and yet, I am still troubled. Mr. Gallegan's reply was that it was only in administrative matters that there was a union. But when I look at the provisions of this bill, it appears that there is a common legislature, with the power to enact common legislation, applicable alike to both territories. Now is the making of legislation a merely administrative matter? Again, there is the common judiciary, common courts with, similarly, power to administer a common law for both territories.

Can we call that merely an administrative matter?

Again, as I read the Bill, there are common taxing powers - taxes can be imposed equally on the inhabitants of both territories. Is that an administrative matter? I remember that, when we were considering this same problem - and it is a problem that is going to be constantly rising - in connection with Tanganyika, I think it was made clear there that the administrative union did embrace the imposition of certain specified common services; but the independent power of the people of Tanganyika, as expressed in their legislature, was kept intact, so that the legislative will of the people of Tanganyika, as I understood that arrangement, could not be superseded or supplanted by a common legislature of the three territories of Tanganyika, Uganda and Kenya. There it was an arrangement for certain specified common services. It did not embody a common legislature; it did not embody a common executive. I suspect all of us would agree that it is a union different in kind from this union. This union certainly goes much further, so far as I can fathom the situation, than did the union in Tanganyika.

Now, as I have said, this is a problem which is going to be constantly arising, a deep problem which the Trusteeship Council will be wrestling with for some time to come. But I wonder whether it is sufficient to say that the powers embodied in this Act are merely administrative matters, are merely administrative questions. Certainly, the full sweep of executive power, the full sweep of legislative power, carrying with it the taxing, the immigration and the other legislative functions, go far beyond mere administrative matters.

I should like to come back and ask Mr. Halligan again - or Mr. Forsyth - the question with which I started: What is there in a political union which

is lacking in this union? Now, Mr. Forsyth's answer was helpful in pointing out that it was not the intention of the Australian Government to destroy the identity of New Guinea. But we must go further than that. Surely, the trusteeship agreement, in Article 5, does permit, under certain conditions, customs or fiscal or administrative unions. It does not permit political unions. My question is: Wherein does this union differ from a political union, which is not permitted? By that, I do not think for a moment that it is a matter of questioning the good faith of the Government of Australia; it is an effort by the Trusteeship Council to determine the roots of this very difficult problem, which we must determine if we are to carry out our functions properly.

Therefore, I should like to come back again and ask either Mr. Halligan or Mr. Forsyth to help me in resolving this question.

Mr. FORSYTH (Australia): I am not very sure that the question is framed in the best way for the Trusteeship Council's consideration of this matter.

We are asked to say where this differs from a political union. There might be very many kinds of political union. I think that particular form of framing of the question is perhaps not the best approach to a consideration of the plan for administrative union which is put down in the Bill.

I should prefer to rest on my previous statement - or, rather, on the examples I gave in that statement of provisions of the Bill which show quite clearly that it is not intended to unify the two territories politically. What is intended is to provide for the practical administration of those territories - a common machinery of administration.

May I remind the Council that the powers of legislation conferred here are not entire and complete; they are limited powers of legislation for these territories. Powers of legislation are related here to matters of

administration, as I think a study of the Bill will show. I do not want to enter into a theoretical discussion as to whether the setting up and operation of courts or the imposition of taxation, the collection of customs and so on are or are not matters of administration. One would have to reach a very strict definition of the word "administration" to make that distinction. But, in plain words, what it seems to me this Act does is to set up a common machinery, a common corps of personnel under a single responsible head official, the administrator, to carry out the practical affairs of the two territories by means of that same machinery. That is what seems to me to be the practical import of this Bill, and it does not seem to me at all that this Bill amalgamates the territories. It provides two separate territories with a common machinery.

The PRESIDENT: I feel that the question asked by Mr. Sayre is quite properly framed.

I feel that here is a situation which some members of the Council feel amounts to political union, and the administering power says this is only administrative union. Perhaps I might paraphrase the question and ask it the other way around: What, in the opinion of the administering authority, are the additional services which would be necessary to make this a political union? In other words, what further things, in addition to what has been proposed, are required to constitute a political union?

Mr. FORSYTH (Australia): That, again, is a question that I do not consider that the representative of the administering authority in this Council can answer. I would consider a question of that kind as one that I could refer to my Government.

Mr. RYCKMANS (Belgium) (Interpretation from French): I am very much surprised to see questions such as that just asked raised here. It is, it seems to me, self-evident that the difference in this organization between

the territory of Papua and the territory of New Guinea is this: that, for instance, nothing can prevent joint legislation to decide that, in the territory of Papua, certain privileges will be granted to Australian citizens, according to which, in the territory of Papua, Australians will be exempted from certain taxes. Nothing can prevent that situation, but it is impossible for such legislation to decree a similar law for the territory of New Guinea, because the territory of New Guinea is subject to the provisions of the trusteeship agreement, as well as of the Articles in Chapters XII and XIII of the Charter.

The difference, then, in the organization of Tanganyika into a federation - or some degree of administrative union - with Kenya and Uganda is that, in the case of Kenya and Uganda, the administering authority has expressly reserved its right to set up certain legislative action which would go counter to the trusteeship agreement for Kenya and Uganda - and this it is entitled to do as the sovereign power in those territories; whereas, in this case, Australia has refrained from enacting certain laws in the territory of Papua, although entitled to do so, simply because it has created an administrative union which brings both territories under a common tie with Australia and with a trust territory, where the hands of Australia are tied by the terms of the Charter.

The difference, then, is that in the territory of New Guinea, no power on earth can impose legislation which goes counter to the terms of the Charter and of the trusteeship agreement; whereas, on the other hand, Australia is quite free to act as it sees fit in the territory of Papua. If such a difference is not clear enough to the Trusteeship Council, then I must reiterate once again that I am very much surprised. Since the terms of the trusteeship agreement and the terms of the Charter are applied and implemented in New Guinea - unless the Trusteeship Council fails to

do its duty - what on earth is the difference to the Trusteeship Council that these same advantages should be granted to the native populations in the territory of Papua?

Mr. GARREAU (France) (Interpretation from French): Throughout this discussion, I have been wondering whether we were not leaving aside somewhat the welfare of the populations of both territories. In the first place, I do not understand in any way the differentiation or distinction made by the representative of the United States between a political union and an administrative union. I do not see how it is possible to set up a line of demarcation between a political union and an administrative union, and I should appreciate some clarification on this point from Mr. Sayre.

On the other hand - from a practical point of view - I cannot but support the stand taken by the representative of Belgium. I do not see of what interest it would be to maintain artificially a boundary, when it is recognized that this boundary was drawn up on the map when there was no knowledge of the actual geography or topography of the land itself. Why prevent the population of Papua from benefiting from the provisions of the trusteeship system as applied in New Guinea?

The objections being made here to the Act which is under discussion would simply tend to prevent extending certain privileges to the territory of Papua, which territory would benefit from a common administration. That would be far less costly for all. Such an administrative union must certainly fulfil the purposes of the Charter by encouraging the native population to progress.

We are losing sight completely of our original aim; namely, to ensure the development and welfare of populations and to lead them in the paths of self-government and independence.

I see this Act as one which may perhaps be rather bold or impudent. We are not, in France, envisaging any such action. I feel that the Government of Australia is being very bold and audacious, but it is being so with very good ends in view. I cannot understand why the Trusteeship Council should cling in this way to a perfectly arbitrary and high-handed boundary which cannot but hamper the development of the population and its welfare. I already pointed out that last year the Council looked upon other cases which were raised in an entirely different light. I confess that I simply do not understand.

In any event, I should be very happy to have certain clarifications on the part of Mr. Sayre as to what he understands as the difference between a political union and an administrative union. After all, the Trusteeship Council must know exactly what this difference is if it is to go on in any fruitful way. As far as I am concerned, I have not yet understood the significance of such a difference.

Mr. SAYRE (United States of America):

I quite agree with Mr. Garreau that we ought to know what we are doing here. We ought to have clarification. I should like to say at the very outset that I do not desire, nor I think does any member of the Trusteeship Council desire, to oppose a union where such a union would be profitable and advantageous to the inhabitants of the territories concerned. I think we all realize that there are conditions in almost all the trust territories in which it could be profitable from the administrative point of view to administer two adjoining territories, one a trust territory and the other not a trust territory under common administrative arrangements. I take it that that is precisely why Article 5 was written into the Trusteeship Agreement for New Guinea, and why corresponding articles have been written into most of the other trusteeship agreements. I think we are all in agreement on that, and I can see nothing whatever wrong in an administrative union if it be for the genuine welfare of the inhabitants. Article 5 makes that specific condition - if it is in the interests of the territory and not inconsistent with the basic objectives of the trusteeship system. I think that members of the Trusteeship Council not only feel that that is permissible, but also that it is advisable in many cases.

On the other hand, I am sure Mr. Garreau would agree with me, and that all the members of the Council would be in complete agreement, that in framing the Charter the authors had to be careful that such unions would not result in wiping out the obligations arising under the trusteeship system. If there were no obligations existing, there could be free annexation and that would be the end of the trusteeship system. I think the Trusteeship Council must see to it that these unions are not of such a kind as to embody virtual annexation. I think we should all agree on that; one could imagine a union which would simply be a form of annexation.

So far, probably we are all in complete agreement, and our problem is to determine whether the union which we are considering is the kind of union specifically allowed under the trusteeship agreement or not. When Mr. Garreau says why draw a line between administrative unions and political unions, I can only turn to the express language of Article 5 of the Trusteeship Agreement. That language is very specific; it says that unions are certainly permissible so long as they constitute customs, fiscal or administrative unions or federations, but it does not permit political unions. The problem before the Trusteeship Council therefore is to make that determination; we are forced, whether we like it or not, to determine whether a given union is such as is included in the specific terms of the trusteeship agreement or not.

That is a very difficult determination to make. When we were considering the Tanganyika union, we found that it was very different in its nature from this union, and as I have already suggested I do not feel that it went nearly as far, because it did preserve the identity of the trust territory particularly in legislative matters. The legislature of the trust territory was preserved as also were its courts and the power of the inhabitants to make their own determinations free from being outvoted or overruled by inhabitants of adjoining territories, as might happen if there were a common legislature. For that reason, as we examined the Tanganyika administrative union, it seemed to me personally that it was the kind of union permitted by the terms of the trusteeship agreement.

Now we have a similar problem arising in connection with this union. I do not know what my conclusions will be; I have been asking questions to try to determine the nature of this union; I think it is <sup>a</sup> question upon which every member of the Trusteeship Council must reach some kind

a little easier for the General Assembly and perhaps for the administering authorities too. We also have responsibilities under the Charter.

Mr. RICHEMANS (Belgium) (Interpretation from French): To a rather large extent I agree with the statement made by the representative of Iraq, but I am under the impression that at present we are really discussing this question in a vacuum. What can we do? At present we are faced with two alternatives; either we simply take note of the statement made by the representative of Australia and say nothing, or we say that we disapprove of the proposed administrative union between the territory of Papua and the New Guinea trust territory. We can express our disapproval in this way; if we are prepared to do so, we can say that it is our impression that the Australian Government is mistaken in considering that in such a union would be in the interests of the inhabitants of both territories, or we can say that this administrative union will have results which would run directly counter to the basic objectives of the trusteeship system.

Even if we continue the discussion for two days, is there anyone here present who will be prepared to say "I condemn the attitude taken by the Australian Government because it is contrary or prejudicial to the interests of the population and because it is contrary to the basic objectives of the trusteeship system"? I believe that none of us would be prepared to make such a contention; we could go on discussing the matter for two days and two nights and we should not be any closer to justifying any such condemnation of the Australian Government. I do not see how at this juncture we can draft a resolution condemning the attitude of the Australian Government. Which of us can claim or can maintain that such a union would be contrary or prejudicial to the interests of the inhabitants?

If we find that it does have certain harmful effects on the population at that time, then we would be warranted in condemning such a measure. But at this point, since we cannot reach the conclusion that we should condemn the measure, without having any elements for such an open condemnation, I do not see how we can take any such stand.

What is suggested now is that the same system which prevails in New Guinea should be extended to the territory of Papua, and that is all. To my mind, at present we are simply discussing this whole question in vacuo, and all that we can do at present is to take note of the statements made by the representative of Australia here and not pass any judgment on the question. I am not prepared to claim that all of this union will act for the benefit of the inhabitants, but I should like to wait and see in the light of experience.

Mr. GARREAU (France) (Interpretation from French): In the first place, I should like to extend my thanks to Mr. Sayre for his explanatory comments. I would say that his explanation does satisfy me. The representative of the United States has pointed out that he was simply raising the question here, and he was, therefore, not voicing any hard and fast conclusion. He wanted simply to have some clarification on a point of some concern to him, and on a point which I would say concerns all of us here. This is a question which, as has just been pointed out by Mr. Ryckmans, is very difficult to answer at the present time. On the other hand, Mr. Khalidy has gone somewhat further afield than Mr. Sayre.

Mr. Khalidy said categorically that such a union would be a political union. A moment ago, I myself was wondering what was meant by such a political union, but since we have at the present stage a contention on

the part of Mr. Khalidy, I believe I can answer the question he has raised. There is not a political union between the two territories because they do not enjoy the same political structure. The territory of Papua is an Australian territory, and New Guinea is a territory under the trusteeship system. Therefore, there cannot be any political union because the two territories have a different political status from the international point of view, especially as regards their relationship with the union. There cannot be any political union if there is to be a common administration between two territories whose political status is so widely divergent. That is why I consider that the act which we are discussing here simply proposes an administrative union which falls within the provisions of Article 5 of the Trusteeship Agreement, but it is not in any way claimed to set up a political union.

Australia, after all, is not relinquishing its powers as an administering authority. If the Australian Government were to fail in its duties vis-a-vis the Trusteeship Council, then the Council, at that time, can make the necessary comments or criticisms to the Australian Government. But if we place a preliminary legal question here, although it is of great interest, I do not believe that we can answer it at the present time unless we choose to tell the Australian Government right away that they have violated the principles of the trusteeship system or that they have gone against the basic objectives of the Charter. But in connection with these two, I cannot find here any such clear-cut criticisms on any specific issues. Consequently, as has been said by Mr. Sayre, a question has been raised here, but we must leave it to the future before giving any conclusions or answers to that question.

RSE/gv

I would tell Mr. Khalidy that, so far as I am concerned, this administrative union cannot be said to be a political union for the reason that the territory of Papua is an Australian territory, whereas New Guinea is a trust territory. That is why we have a report on the part of the Australian Government. How, then, can there be a political union in this case? It seems to me that there is a very serious confusion between administrative and political union, but this is a confusion which is not warranted by the text before us.

Sir Alan BURNS (United Kingdom): I do not want to attempt to go into any definition of what a political union may be, or what an administrative union may be, but I think it might help the Council if I call attention to one fact in the case of the Cameroons, a trusteeship territory under British trusteeship. Article 5 (b) of the Trusteeship Agreement uses exactly the same words as are used in the case of New Guinea, "constituting the territory into a customs, fiscal or administrative union with the adjacent territories". The Cameroons, which is still an entirely distinct trusteeship territory from Nigeria, for years, both under the mandate and now under the trusteeship system, has been administered by one Governor and one set of officials, and is now sending representatives to the Central Legislative Council of Nigeria. Whether this is a political union or not, I am not prepared to say. I do not know what the difference is between an administrative and a political union. It seems to me an extremely difficult line to draw. I wish to point out that this operation has been followed in the case of the Cameroons for a great many years with the full knowledge of the Permanent Mandates Commission.

The PRESIDENT: I would now speak on behalf of the Chinese delegation, although what I have to say very briefly really concerns an interpretation of the powers of this Council. It has been said that the Australian Government has done a service to the Trusteeship Council by bringing this proposed arrangement to the Council for its information. We believe that is a very proper course to take, and I should like to remind the Council that under rule 101 of our rules of procedure, the general report to be submitted to the General Assembly shall include, as appropriate, the conclusions of the Trusteeship Council regarding the execution and interpretation of the provisions of Chapters XII and XIII of the Charter and of the Trusteeship Agreements and such suggestions and recommendations concerning these trust territories as the Council may desire.

It seems to me that the Council undoubtedly has the power and has the duty and responsibility to discuss such matters as are now before us, and not only to discuss them, but to form an opinion to be submitted to the General Assembly. It seems to me that the execution and interpretation of Chapters XII and XIII of the Charter and of the Trusteeship Agreements clearly lies within the competence of this Council. I cannot subscribe to the view that the Trusteeship Council, which is charged with the supervision of the operation of the trusteeship system, is absolutely powerless to discuss, to comment upon, or to form any opinion of its own on any step taken by an administering power in the discharge of its duties as an administering power.

The question has been asked just now: What good could the Trusteeship Council do? It has been argued that the Australian Government would have the power anyway to pass such legislation as it pleases, but I submit that if the Australian Government, or the Government of any administering

authority, should choose to adopt a course of action in the face of and in spite of the contrary opinion expressed by the Trusteeship Council, then the Council itself has no obligation and certainly no such duty to endorse such an action. The Trusteeship Council at least has the right to have its own conclusions. It does not befall the Council to endorse or recognize a situation of which it does not approve.

That is my view, and I believe that is a view which can be supported. If we come to the specific case of the proposal submitted by the Australian Government, I should like to recall<sup>to</sup> the Trusteeship Council the discussion in the Fourth Committee of the 1946 General Assembly. We have made a good deal out of Article 5 of the Trusteeship Agreement, but even in the admission of the representative of Australia, the record shows that he admitted that any steps taken in relation to this particular Article would be subject to review, and the Council would be free to express an opinion if it decides such measures were not in the interest of the territory. I do not subscribe to the view that this Council has no competence to pass its judgment on issues of such a grave nature.

This leads me to another point. A good deal of emphasis has been laid on the interests of the inhabitants. I recognize that in every act taken by the administering authority and by the Trusteeship Council, the interests of the inhabitants are paramount, but I do submit that in regard to the application of Article 5, the opinion of the administering authority as to what constitutes the interests of the inhabitants concerned is not the sole criterion on which that administering authority can take any action it pleases. Even in Article 5 of the Trusteeship Agreement for New Guinea, where the wording seems to indicate that the opinion of the administering authority is final, I would suggest that a proper reading

of that Article is that such an administrative union is permissible only when it is in the interests of the inhabitants, and not only in the interests of the inhabitants, but consistent with the basic objectives of the trusteeship system.

Now we may consider that the union not only of these trust territories, but possibly of nations, is in the interests of the inhabitants, but we must understand that there is another consideration, and that is the independence of nations, the sovereignty of nations. In this case, the basic objective of the trusteeship system should be an over-riding consideration. What is the basic objective? The basic objective is to promote self-government and independence, and in order to do that the trusteeship system requires the preservation of the distinctive juridical status of a trust territory. Therefore, any form of political association which may lead to the extinction of that separate political entity is not permissible, I submit, under the trusteeship system. We must not be misled by what has been said again and again that such a union is in the interests of the inhabitants. That is a question which is open to different conceptions as to what is in the interests of the inhabitants, but even if it is in the interests of the inhabitants, the basic objective of the trusteeship system -- that is, the promotion of ultimate self-government and independence -- is still a controlling factor.

Unless there are any further observations at this point, I would suggest that the Trusteeship Council recess until 4:45 p.m.

The meeting was suspended at      p.m.

FAH:cc

(The meeting resumed at \_\_\_\_\_)

Mr. REID (New Zealand): I have been silent in this debate so far as

I am somewhat in the same position as my colleague from Iraq who is waiting for the appropriate time to ask questions on the political aspects of the Report. That time does not seem to have come.

However, I do want to say something on the question of administrative union which has been discussed during the last two days. I think my question is pointed by the question that was directed to the Australian representative by the representative of the United States when he asked for an indication of the difference between a political union and what is contemplated in this draft bill. I am not sure that the question was posed in the right way and that it was not worded in such a way that no one could answer it carefully. I do not suggest for a moment that there was any twisting of the question; I simply think it was unfortunately phrased for the purpose of discussion.

I have looked carefully through the Charter and the trusteeship agreement, and I find no reference to the term "political union". All I can find is a reference to the necessity that any union must fulfil two conditions, one, that it must be in the interests of the inhabitants, and two, that it must not be contrary to the terms of the Charter. I can find no third condition that it must not be a political union. Possibly that is implied. But I suggest that the question that should be directed to the Australian representative should be: Wherein does this union contravene either the provisions of the Charter or the interests of the inhabitants?

I am indebted to the Secretariat for drawing my attention to the Rapporteur's Report of the Fourth Committee, 1946 General Assembly. In paragraph 6, on page 300, there is a statement dealing with the interpretation

by the representatives of the administering authorities of that clause concerning administrative unions. There, I do find the word "political" used. But that is the only time that I find it used.

Paragraph 6 is rather lengthy, but summarizing it, it states that:

"In connection with the Trusteeship agreements, concerning the right of Administering Authorities to constitute the Trust Territories administered by them into customs, fiscal, or administrative unions or federations with adjacent territories under their sovereignty and control..."

And then it quotes the relevant articles, including Article 5 of the Agreement for New Guinea. Then it goes on:

"...the delegations of Australia, Belgium, France, and the United Kingdom, the States submitting Trusteeship Agreements...wish to give assurance that they do not consider the terms of the articles above quoted as giving powers to the Administering Authorities to establish any form of political association between the Trust Territories respectively administered by them and adjacent territories..."

The term used is "political associations". If the paragraph stopped there, possibly it would be fair to ask the representative of Australia the difference between this scheme and a political association. But, in point of fact, the paragraph does not stop there. It gives a definition of "political associations", which is, for once, in a United Nations document, reasonably clear. It says that a political association is one which would:

"...involve annexation of the Trust Territories in any sense, or would have the effect of extinguishing their status as "Trust Territories."

There is a definition of "political association" that is quite clear. I think the Trusteeship Council must take note of that definition and the fact that this Report by the Rapporteur was accepted by the Fourth Committee and by the General Assembly in 1946.

Mr. SAYRE (United States of America): Might I ask the representative of New Zealand to repeat that language.

Mr. REID (New Zealand): It is paragraph 6 of page 300 of the Report of the Fourth Committee, Part I, of the 1946 General Assembly.

"In connection with the Trusteeship Agreements, concerning the right of Administering Authorities to constitute the Trust Territories administered by them into customs, fiscal, or administrative unions or federations with adjacent territories under their sovereignty and control..."

It makes reference then to the various articles in the various agreements.

"...the delegations of Australia, Belgium, France, and the United Kingdom," being the delegations of States submitting Trusteeship Agreements, "wish to give assurance that they do not consider the terms of the articles above quoted as giving powers to the Administering Authorities <sup>to</sup> establish any form of political association between the Trust Territories respectively administered by them and adjacent territories which would involve annexation of the Trust Territories in any sense, or would have the effect of extinguishing their status as Trust Territories".

That definition would suggest that the test on which this document should be judged, and the basis on which questions addressed to the representative should be framed is the point of annexation.

I do not think that anyone has raised a question of doubt as the intention of the Australian Government, and no doubt the Trusteeship Council and the General Assembly would have something to say if there were any doubt.

In this document, as I read it, we have a description of the Territory, an assurance in the preamble of its continuation as a trust territory, an acknowledgement by the Australian Government and Parliament of its title in respect of the Territory. I have heard no suggestion that the character of the Territory should in any way be changed.

If these Territories were considerably advanced, and if there were a national consciousness among the peoples of the two Territories, there might be room for further argument. There might be some extinguishment of national consciousness. But, quite apart from the fact that it is not within the terms of the Agreement we are considering, this is a Territory which is inhabited by extremely backward people, people who have no sense of loyalty and no national consciousness beyond their own tribal boundaries, probably beyond their own family or valley boundaries.

I would suggest that the proper course would be to ask the Australian Government for an assurance as to the effect of the bill and to ask whether it establishes any form of political association which would involve annexation of the Territory or have the effect of extinguishing its status as a trust territory.

The PRESIDENT: A question of the interpretation and definition of "political association" has been raised. On behalf of the Chinese delegation, I should like to put on record the fact that I do not agree with what Mr. Reid has said regarding this definition. I am aware that English is Mr. Reid's native language. He speaks the King's English. But I do not think that that clause can be considered as a definition of political associations. What does that quotation amount to? The important words are

"political association". The word "political" is used as distinct from "customs, fiscal, or administrative". That word "political" is very pertinent. "...any form of political association...which would involve annexation...in any sense..." I am recalling what Mr. Reid said from memory.

The third <sup>group of</sup> very important words are "have the effect".

I do not think that we can say that "political association" is defined by that following clause. We cannot say that an association is not political because it does not annex a territory or extinguish its status as a trust territory. In other words, I do not think we can say that that is a definition of "political association". It is true, as the representative of New Zealand asserted, that there is no mention of political union in the Charter or in the agreement. But it must be recalled that the General Assembly accepted the trusteeship agreement with the understanding that such assurances are expected. That is a very relevant part of the interpretation of the trusteeship agreement.

Mr. REID (New Zealand): I should like to reply, not with the respect due to the President, but with the respect due to the representative of China. It is difficult to quote from a long document which you do not have before you. I only want to recall to the President's mind the fact that the form of association that is excluded here is not a political association but a form of political association which tends in those two directions. I shall agree that political association can have a much wider meaning. It can mean that you and I agree to subvert the constitution of some friendly state. That would be a political association. But this is a particular kind of political association. It can be any political association, and that does not contravene this assurance. It is only a type of political association that is excluded.

Mr. Padilla NERVO (Mexico): I know that the remarks that have been made here by various representatives, and the remarks that I made myself, will not in any way be interpreted by the representative of Australia and the special representative as implying that the Government of Australia is wilfully violating the Charter.

DR/bh

Not at all. For myself, I do believe that the Australian Government, in proposing this union, is completely sincere in its opinion that it would be in the interests of the territory, and its objectives are not inconsistent with the basic objectives of the international trusteeship system.

What we are concerned with here is whether or not the Trusteeship Council, or the representatives in the Trusteeship Council, are of the same candid opinion as the Government of Australia. As far as I am concerned, after having heard the explanation made by the representative of New Zealand, my fears are that in practice this Act amounts to extinguishing the Statutes of the trust territory. We may remember that in Committee Four certain of the administering powers made that statement. It was because a great majority, or many of the members, of Sub-Committee I of Committee Four, were against that particular Article 5 of this Trusteeship Agreement, and, in fact, against many other Articles of the Trusteeship Agreement that take the place or state the same thing, more or less, as Article 5.

I remember that an effort was made to even suppress the words "in the opinion of the administering authority," because we considered that in safeguarding the principles and the objectives of the Charter, it was not the administering authority who was the sole and only judge. In respect to this agreement regarding New Guinea, you will all remember it because many of the representatives here served on the Fourth Committee. An amendment was proposed trying to suppress the words "in its opinion", and that amendment did pass in the Sub-Committee.

Later on, when Article 8 was framed, Mr. Ryckmans stated that it had been a mistake to have approved that amendment because, in fact, the Australian Government did not approve of it, and that we had to approve an agreement that had the consent and approval of the Australian Government. But we must consider, therefore, that Committee Four and the Sub-Committee -- and even the General Assembly -- were placed in a very particular position. We were not really making an agreement with the administering authority. We were accepting certain terms stated by the administering authority. We could either take it or leave it. If we did not accept it, it would not be a trust territory. If it was not a trust territory, there would not be any Trusteeship Council, and in that situation we were obliged, against our opinion in regard to certain Articles, to go as far as approve all the terms that the administering authority considered essential. Therefore, I believe that the broadest interpretation possible of Article 5 should be given on the part of the administering authority, and what Mr. Reid has just read was really somekind of an assurance of the administering authority given in exchange for the fears and the hesitation that all the other members of the Committee had in respect to these particular provisions.

I do believe that the Australian Government -- according to the text of this Article 5--have the right and they could say "in our opinion." This is not against the objectives of the Charter, but that does not mean that the Trusteeship Council has to have the same opinion, or that the doubts which we have expressed have been diminished in any way.

I listened with great attention to the opinions expressed some time ago by the representatives of Belgium and France. When we talk about a political association, that will have the effect of involving in practice annexation. It is not a juridical declaration of annexation, but it is short of that. I do not see very much difference on how and in which way the territory of Papua could be administered as an integral part of the Territory, or as being annexed to Australia than in the way it is done by this Act. This Act extends to New Guinea. The representative of Belgium told us "Why protest against an Act when all it does is to extend the benefits of trusteeship to Papua?" But what we are concerned with is that it is the opposite situation, that they extend the structure of Papua to New Guinea.

Examining the Act itself, I do not see any benefits for the inhabitants. The benefits might come from the fact that the administration, having united the administration, might make economies and might be more efficient in its work. That is something that will happen in the future, but we are concerned exclusively with the presentation of a document that is the Act -- this Act -- and we have not arrived at the moment of asking questions of the Special Representative, and this does not seem to me to be of great benefit to the inhabitants of New Guinea.

The voice that, according to this Act, the natives have in the Executive Council, in the Legislative Council, and even in the Native Councils is so small and depends so much and absolutely on the will of the administrator that I cannot conceive of any other way of governing or making an Act for distant provinces, or a distant part populated as this one is, and belonging, really, to the territory of Australia.

The criterion that we have to have in mind is not, in my opinion, whether or not it is in the interests of the inhabitants because the Act itself cannot be said to be in the interests of the inhabitants, and that is for the future to see, according to the actual policy of the Government. The criterion, therefore, is whether or not our doubts are satisfied that this amounts to an administration similar to the administration of any province of the country, or whether or not it extinguishes the Statutes as a trust territory. In that respect we are not, as far as I am concerned, preoccupied by the possibility of identifying at any time the geographical portion of earth that was the trust territory. That always would be able to be identified. What we are concerned with is the situation of the inhabitants as far as they are able to maintain consciousness of forming part of a trust territory, which was New Guinea.

We have heard the representative of France say there is a great difference because one is a trust territory and the other is a colony, and it is stated here that one part is a trust territory, and the other is a colony, but what we are precisely afraid of is that by this Act, that identity, from a social, economic, and even from a humane viewpoint, really does disappear. I consider it very difficult for any inhabitant in what is now called a territory to distinguish whether he did form part of a trust territory or of a colony. The way of establishing -- and this is something for the future; it is only a project -- those other councils which, if I am not mistaken are called the Advisory Councils for Native Matters, Native Village Councils

is a way of weakening the spirit of the population. These Councils have something to do with only certain areas, and only in respect to certain subjects. They are only concerned with the welfare of the community. They only have a voice in respect to the welfare of that particular area to which that particular council was established; it is nothing in the way of a voice that could represent the voice of a larger area as a trust territory, nothing in this Act and in practice. I do not see how it is possible to maintain the identity of a trust territory except that the Council knows that we know that there is a trusteeship agreement and in the trusteeship agreement the boundaries of the Territory are defined. Therefore, we should, in my opinion, distinguish between the rights of the administration -- and in this respect I do not contest their sincerity.

The reaction that the Council has had in studying the implications of this Act is that, in that respect, our doubts have not been diminished at all by the statements that have been made either by the representatives of Australia or by other representatives of administering authorities who have spoken on the subject. I wonder whether this is such a fundamental problem, whether or not the administering authority would be willing for this Council to ask an advisory opinion of the Court in this respect. It might be helpful for the future. I do think that it would be very helpful to the members of this Trusteeship Council who have certain doubts if we could have an explanation in some other way. How does the administering authority intend to keep alive the following: I very sincerely appreciate the declarations made in the paper,

but in their acts of government and in their every-day conduct in respect of the inhabitants, in their system of education, in the steps taken to give to the inhabitants a gradual intervention and responsibility, in respect to self-government, and in taking into account the express wishes of the population of their political aims, when the time will come to have them, I repeat, how does the administration intend to keep all that alive in the Territory of New Guinea as differentiated from the Territory of Papua? As far as I am concerned, we really depart from the idea. I do not know whether it is wrong to say that a territory or a colony is an asset to the administering power rather than a liability. Many times it is a liability.

We have seen that especially in the question of Palestine. But many times we have felt that an asset does not consist only in the form of a financial asset. There are questions of international prestige and strategic positions which are considered an asset.

From that point of view-- and every element considered -- a colony is always an asset to the administering power. If, in this particular case, they did not consider it necessary or convenient to submit Papua under the trusteeship system, it is because they prefer to have absolute, unrestricted administration and direction with regard to Papua.

When we are presented with an act that is exactly the same, my conclusion is rather the opposite of the one stated by Mr. Ryckmanns, and it is that they are assimilating New Guinea with Papua, and not Papua with New Guinea.

Therefore, if we could have an explanation as to what conduct and what particular attitude, if any, it is possible for the Government to take under this act, in order to keep alive what I said was necessary to keep alive in New Guinea, we should be very glad to hear it, and it would really clarify our doubts in this respect.

The PRESIDENT: Are there any further observations?

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): I should like to ask the representative of the administering authority some questions. In accordance with this proposed bill, what percentage of the indigenous population would participate in the higher legislative and administrative bodies of the territory?

Mr. HALLIGAN: I wish to refer to page 21, paragraph 36 of the Report, which makes provision for a Legislative Council. In that bill, it will be seen that the proposal is for a Council of twenty-nine persons, of whom paragraph (e) shows three non-official native members. These are three non-official native members of the indigenous population.

The PRESIDENT: Does that answer your question, Mr. Tsarapkin?

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I should like to have an explanation with regard to these three non-official native members. Paragraph (d) says: "three non-official members representing the interests of the Christian missions..." I do not mean that paragraph, but merely paragraph (e), which speaks of three non-official native members. Would the special representative clarify that? Does that really mean that they will be representatives of the native or indigenous population, or will they be white people who will represent that native population, as is the case in Ruanda-Urundi?

Mr. HALLIGAN: No, the proposal calls for three native members, three natives, three members of the indigenous inhabitants. I was just looking at a provision which says that in the selection of those native members, regard should be had in connection with their services on the village councils which are proposed to be established. I might add, with regard to that provision, that it is entirely something new, to make provision for native members of the Council. In considering that provision, I should emphasize again the backward nature of the people.

But this is a progressive start and the Government regards it as a start which is being made with the actual native inhabitants; it is an experiment and an effort which is being made to bring them into the

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But this is a progressive start and the Government regards it as a start which is being made with the actual native inhabitants; it is an experiment and an effort which is being made to bring them into the

administrative and legislative machinery of the territory.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Are these native representatives to be appointed by the administering authority? Will they be appointed by the administering power or will they be chosen, or will they be elected?

Mr. HALLIGAN: The provision which appears on page 21, paragraph 36(3) says:

"The members of the Legislative Council (other than the Administrator and the elected members) shall be appointed from time to time, as occasion requires, by the Governor-General" -- that is, the Governor-General of Australia -- "on the nomination of the Administrator."

That provision applies to those members under section (e), that is, the native members. They will be nominated by the Administrator, and appointed by the Governor-General.

The PRESIDENT: I should like to interpose a question here on behalf of the Chinese delegation. Would the three members be representative of both territories?

Mr. HALLIGAN: Yes.

The PRESIDENT: I note that paragraph 36 (4) says:

"The Administrator shall, in the exercise of his powers of nomination, have regard to the desirability of the inclusion in the Legislative Council of an equitable number of residents of the Territory of Papua and of the Territory of New Guinea respectively."

How many members then would be equitable for New Guinea, and how many for Papua?

Mr. HALLIGAN: That clause relates to all those nominated, which consist of three non-official members, three natives, and three from the missions. That would be nine. That clause has relation to those nine nominations, and there is an instruction there to the Administrator that, in his nominations, he should see to it that the Territory of New Guinea and the Territory of Papua are represented in an equitable manner with regard to those three classes of appointments.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): I should also like to have a reply to the next question. Is there a provision in this bill which would provide for the development of organs of self-government for the native population?

Mr. HALLIGAN: There is no specific provision in this bill for self-government for natives, but a start -- and quite a considerable advance -- is made here. I would refer the representative to the provision on page 18 of the Report which deals with advisory councils for native matters. The intention behind <sup>this</sup> is that the natives should gradually, through these advisory councils, which are also new -- as are the village councils -- begin participation. That is a commencement whereby the natives would have a direct part in the organs of the Government of the Territory. It is a start.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): Page 18, paragraph 27 (2), says:

"The number of native members should be at least a majority of the total number of members."

Who else can participate in these councils which will be dealing with native problems, and in the advisory councils and native village councils? Who can be members of these bodies besides the natives themselves?

Mr. HALLIGAN: The officers of the administration. The purpose of that is the mixture of officers of the administration with the natives themselves, with the officers guiding the natives in the functions of such councils. I must remind the members, of course, that this is not something which is in existence, but that it is a considerable advance on anything that has been attempted to date.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): As far as I understand it, therefore, this advisory council for native matters, and the native village councils, are still in the project stage. Such advisory bodies still do not exist; it is just projected organs, is that right?

Mr. HALLIGAN: The native village councils have been in existence, in a small way, strictly around Raboul, for a number of years. They have not been fully effective bodies, but the natives have been trained and an attempt has been made to see how far they are ready to take part in such bodies as native village councils, and the proposal now has been approved, by legislation of ordinance, to establish native village councils, giving them certain statutory functions. As an extension of that then, the advisory councils for native matters, which is constituted by this act, would be a further extension of the village councils, but I must make it clear that the native village councils have been in existence, in a small way, without any statutory functions, until now. By ordinance, it is proposed to give them statutory functions. That ordinance was about to be passed.

After that, if this act is passed in its present form, the next step would be from the native village councils to the advisory councils, and then, from the advisory councils we hope that the natives would then come, in increasing numbers, on to the legislative council.

Mr. TSARAPKEV (Union of Soviet Socialist Republics)(Interpretation from Russian): With regard to the members of the advisory councils for native matters, and the native village councils, are members of both of these bodies appointed, or is some attempt being made to have some sort of electoral approach, some sort of choice in their selection?

Mr. HULLIGAN: They would be appointed. It would not be a formal election, because it would not be possible for the natives to hold a formal election. But the natives would, among themselves, select the people whom they wish, or mention to the government official that a person is acceptable for appointment by the Government to the native village council.

Mr. TSARAFKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): This bill provides for the creation of joint legislative and executive organs for the two territories of Papua and New Guinea. In these legislative and executive bodies, is provision made for the participation of the indigenous native population?

Mr. HALLIGAN: The Executive Council referred to on page 16 consists of the administrator and officers of the territory only. The legislative body proposed is referred to on page 21. It consists of the administrator, officers of the territory, three non-official members to be elected, three non-official members representing the Christian missions to be nominated, three non-official native members to be nominated, and three other non-official members. To that extent, it is proposed that three non-official natives be appointed to the Legislative Council.

Mr. TSARAFKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): How will the three non-official native members who will be appointed to the Council be distributed between Papua and New Guinea? Will there be one and a half persons from each territory, or two from one territory and one from the other? Which territory will send two members and which territory will send only one?

Mr. HALLIGAN: It certainly will not be the first alternative, that is, one and a half members from each territory. I refer to Section 36(4) on page 21 where it states that the administrator shall in the exercise of his powers of nomination have regard to the desirability of the inclusion in the Legislative Council of an equitable number of the residents of the territory of Papua and of the territory of New Guinea respectively, and that applies to all the nominated members consisting of the three non-official members / <sup>the</sup> three natives, and the three from the missions, a total of nine. The administrator is charged with making an equitable

distribution of the nomination of these nine persons.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Why do you mention the nine members here? There are only to be three native members, if I understand you correctly, so why do you refer to nine all the time?

Mr. HALLIGAN: Sub-section (4) of 36 on page 21 says that in the exercise of his powers of nomination, the administrator<sup>shall</sup> have regard to an equitable distribution of the members of the Council of twenty-nine. One member will be the administrator, sixteen officials, three elected, which makes twenty, leaving nine persons to be nominated.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I understand you, therefore, in this way. Those members who will be appointed to this body will be appointed from the representatives of the population, regardless of whether they are natives or not, so that these individuals who will be constituted on the Legislative Council as representatives of the population will include the native population. That number of members will be divided equally between New Guinea and Papua. Do I understand you correctly?

I should like to know how this joint Legislative Council and joint executive authority will carry out its functions as regards New Guinea. I should like to clarify my question because New Guinea, from the point of view of international law, is a very specific type of territory. Its status is determined by the Charter of the United Nations and by the Trust Agreements. It is a trust territory, and there are specific tasks and problems which are involved in this territory. I should like to know how the Legislative Council and how the executive authority will apply to New Guinea such legislation and such provisions as would be in accordance with the Charter and in accordance with the Trusteeship Agreement.

It is clear that with this different status different problems face the administering authority in the administration of these two territories. Therefore, I should like to know how the distinction would be carried out in the treatment of these two territories, both in the legislative and in the executive fields. How does the administering authority expect to carry out the required developments of the population of the trust territory of New Guinea within the scope of this common Legislative Council and common executive organ?

Mr. HALLIGAN: The legislature and the executive would have to keep constantly in mind - and they would - the different status of the territories. In relation to the trust territory, of course, the foundation, the things that they would have to comply with, would be the Charter and the trusteeship agreement. The form of the legislature requires legislation to be passed by the Legislative Council and assented to by the administrator or, in certain specific cases, reserved for the assent of the Governor-General.

As a further answer to that enquiry, I would refer members to page 25 of document T/138/Add.1, where it is said:

"The Administrator shall reserve for the Governor-General's pleasure an Ordinance of any of the following descriptions, namely: ... (d) an Ordinance which, in the opinion of the Administrator may not be fully in accordance with Australia's treaty obligations, or with Australia's obligations under the Trusteeship Agreement."

That means that if there were any doubt about any ordinance not complying fully and entirely with Australia's obligations under the trusteeship agreement, that ordinance could not be brought into force but must be reserved for the Governor-General's pleasure or assent, which, of course, would mean that it would be submitted to the Governor-General after examination by the central authority, the Australian Government.

Mr. ISARAFKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Does that mean that the distribution of legislative and executive powers for New Guinea will be different - that is, that laws will be promulgated for that territory which will be in accordance with the trusteeship agreement, while other laws will be passed for Papua, which has a different status? Or does it mean that the same ordinances will be applicable to both territories?

Mr. HALLIGAN: It is proposed that the same laws should be applicable to both territories, and it is not contemplated that it would be necessary, on any subject, to pass a separate law for the trust territory. It would be possible to do so, but generally the laws that would be passed for the trust territory would be the same for Papua.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): The Legislative Council, however, is made up of individuals appointed by the Governor-General, and there will be people in that Council who are residents of the territory of Papua and who would be interested in the promulgation of ordinances which would refer to that territory, which is a colony. How can we be sure that the Legislative Council will bear in mind the particular status of the trust territory of New Guinea and will have in mind the special interests of the population of New Guinea in the legislative practice - if the legislators themselves are residents of Papua? What guarantee would we have that they would have the real interests of the residents of New Guinea at heart?

Mr. HALLIGAN: Some of them would be residents of Papua; others of the territory of New Guinea. A further safeguard there, I would suggest, is the fact that, besides the nominated and elected members, there are the administrator and sixteen officials, whose task it would be to see that Australia's administration in relation to the territory of Papua was strictly in accordance with the Charter and the agreement.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I have certain doubts as to the following point:

Does the administering authority consider that the passing of a bill which would unite both these territories, in regard to administration, legislation, etc., into one territory would be in accordance with Article 75 of the Charter, which says:

"The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder..."

But the United Nations has not rejected and has not refused to carry out its administration and supervision in this respect. If the territory of New Guinea is combined with the territory of Papua, and if one administrative power exists, if one legislative body exists, if the finances, the customs organizations, the transport, the mining and the laws governing mining, the labour laws are all made common - if all of these are combined into one, it is quite obvious that there should be a different approach, first as regards the trust territory and then as regards the territory which is not under the aegis and protection of the United Nations.

I should like to have an explanation from the administering authority as to how the United Nations can actually supervise and control the manner in which the trust territory is being administered since the legislature, the executive bodies, the important services and the economy have all been unified and made into a common whole. In order to supervise and control the United Nations should have at its disposal detailed information regarding all aspects of the life of the trust territory, but now the most important aspects of the life of the trust territory will be confused with those of adjacent Papua. My impression is that the United Nations will not be able in future to get full information giving a true picture of life in New Guinea, as is provided in the Charter. How, for instance, would reports be made in reply to the questionnaire, in accordance with the Charter? What is the feeling of the administering authority in this respect?

Mr. HALLIGAN: Full information will be supplied on all aspects of life and activity in New Guinea. The administering authority is obliged to put in an annual report to supply such information as the Trusteeship Council requires, and the form of the report will be such that full details of legislation, administrative action and all activity in the territory will be supplied. Any further information which the Trusteeship Council may wish to have will of course be supplied as well.

Mr. TSARAIEKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I consider that the reply given by the representative of the administering authority is too vague and too general. The first report submitted by the administering authority does not answer the requirements of the Charter. It does not agree with the standards which should be

applied to such a report. If there are to be common services, common legislative action, common executive authority, taxation, land laws, labour laws, transport and economy, they will be fused in such a way that I cannot understand how the administering authority will be in a position to give the Trusteeship Council detailed information regarding the territory of New Guinea itself. It seems to me that it would be impossible to do so, otherwise it would be necessary to have a separate administration for New Guinea. For instance it will be necessary to have a separate body to handle land problems, but there will not be this. How does the administering authority look upon the possibility of supplying us with the volume of information which we require and which we should have in regard to this plan?

Mr. HALLIGAN: In regard to the Report for 1946-1947, I would refer the Council again to the opening statement by the Minister in which it is explained that the time available for preparing this Report was not such that we could do justice to it or adequately supply the full information required by the questionnaire. Subsequent reports will be fuller and we hope will supply all the information that the Council requires. As to the suggestion that the unified administration may make it impossible to supply the necessary information in relation to the territory of New Guinea, separate statistics will be kept for the territory by each department and we should be able to furnish those statistics in relation to the territory of New Guinea as apart from the territory of Papua. In doing so, of course, we may supply information

about Papua, but we shall certainly make a point of seeing that information supplied relates particularly and specifically to New Guinea and that all the information required by the Council will be supplied.

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): Article 3 of the Trust Agreement says that the administering authority undertakes to administer the territory in accordance with the provisions of the Charter and in such a manner as to achieve in the territory the basic objectives of the international trusteeship system which are set forth in Article 76 of the Charter. Article 76 of the Charter, paragraph b, says:

"To promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned..."

I would like to draw the attention of the Council to this particular part "and the freely expressed wishes of the people concerned." And in that connection, I would like to have an answer from the administering authority on the following question: Was this question of uniting Papua and New Guinea raised with the population of New Guinea? Is it a result of the freely-expressed wishes of the peoples, or is this a unilateral decision on the part of the administering authority?

Mr. HALLIGAN: The people of the Territory were not invited as a whole or individually to express their opinion on this, but any representation made by the inhabitants were considered by the Government.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): I have one other specific question I should like to ask. I am asking this question because of information which has become available to me quite by accident. In September of this past year, a group of natives were shot by native police under the officership of a certain police officer. Could you give me any further information, give the Council any further information on this, or are you unaware of that incident? I received this information purely by accident.

Mr. HALLIGAN: Can you tell me something further as to the locality on which you have this information?

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): This was in connection with Senior Officer J.L. Taylor.

Mr. HALLIGAN: I have information of that. There was a patrol in an area on the mainland of New Guinea, in a part classified as an uncontrolled area. An Assistant District Officer and a Patrol Officer were carrying out a patrol in that area. The Assistant District Officer was required to report, to leave the party, and he left the Patrol Officer in charge.

During his absence, there was a clash between the party and the natives, and four or five natives were shot. That, I think, is the instance to which the USSR representative refers. Of course, that was in a period subsequent to this Report and would not be included in this, but would be reported in a subsequent Report.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): Do the police have rights which allow them to carry out such acts without court proceedings and court actions? How does the Special Representative explain the incident which took place?

Mr. HALLIGAN: No, the law would apply there just the same as in every other part of the Territory, and this incident would be dealt with in accordance with the law.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): In other words, you have no further details as to the incident and the reason for which the natives were shot? The Special Representative cannot give any further details to the Trusteeship Council, as I understand it?

Mr. HALLIGAN: I do not have the details, but from my recollection I can give you the broad details of it. The cause of it was that the natives in that area attacked the Government Patrol party, and during the course of that attack certain natives were killed.

Mr. TSARAPKIN (Union of Soviet Socialist Republics)(Interpretation from Russian): I would like to make several comments regarding the question of unification of administration, which question is before us. A number of members of the Council have already made their remarks on this question, and I would also like to have the opportunity of speaking briefly on this question.

Mr. KHALIDY (Iraq): I want to ask one question on a point arising from Mr. Tsarapkin's question. May I ask the representative of the administering authority whether those natives were killed in the actual action of the clash, or were they killed as a punitive measure later on?

Mr. HALLIGAN: There were no punitive measures. They were killed in the actual clash.

The PRESIDENT: I should like to ask Mr. Tsarapkin if he would be willing to make his observations at another meeting, or would he want to make them now?

Mr. TSARAPKIN (Union of Soviet Socialist Republics) (Interpretation from Russian): I have no objection to making them at a future meeting.

The PRESIDENT: Then I shall adjourn this meeting until 2 p.m. tomorrow. In the morning it has been arranged for the Drafting Committee on the Report on Ruanda-Urundi to continue its work. It will meet at 11 a.m. in Conference Room 5.

The meeting rose at 6:08 p.m.