

a member of the staff to appeal first to the officials in the Administration who were competent to study his application, then to the Appeals Board, then to the Secretary-General and only lastly to the Administrative Tribunal. Certain applications would thus drag on for years, and Mr. Feller regretted that the Staff Committee had not been convinced by that argument. He considered that it was imperative that questions of that type should be settled in the most expeditious manner.

72. Certain misgivings had been expressed regarding the ground which the Administrative Tribunal would have to clear before it could determine clearly the legal principles involved in a given dispute. He agreed that in a recently established international administration, regulations were necessarily numerous and frequently amended. It would be for the Administrative Tribunal to cut a way through that jungle and to lay down the law. The Tribunal would be competent to deal with practical cases. The procedure of submitting the same dispute to two bodies successively would only complicate matters and cause a loss of time.

73. The joint disciplinary committee, the establishment of which was contemplated, would help members of the staff in the sense that it would intervene before a decision was taken. They would thus be assured of more effective protection than that offered by the Appeals Board. A member of the staff was more concerned about his reputation than about his post. It would be much more advantageous to the official to be heard before the Secretary-General took a final decision, than for him to win his case a year or more after a decision had been taken. Mr. Feller hoped that members of the Fifth Committee would feel that the staff was adequately protected.

74. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) stated that Mr. Feller's remarks substantially represented his own views. It would be dangerous to resort to the system of seeking advisory opinions of the Administrative Tribunal, thereby tending to evolve guiding legal principles even before contractual claims were submitted. The precedent set by the Administrative Tribunal of the League of Nations, which had worked

satisfactorily for twenty years, should not be lightly set aside. Similarly, the disciplinary committee which the Secretary-General proposed should be set up had had its counterpart in the League of Nations and the ILO.

75. He would not be in favour of retaining the Appeals Board if an administrative tribunal were set up, nor of giving the Administrative Tribunal any competence in matters unrelated to contractual obligations. The Appeals Board had functions very different from those of an organ such as the proposed Administrative Tribunal, since the latter, vested with the dignity of a judicial organ, would give final awards, while the Appeals Board was an advisory body to the Secretary-General, who alone could take decisions. An administrative tribunal would best serve the interests of the staff in the majority of cases pertaining to alleged non-observance of contract. A staff member was primarily concerned with the vindication of his character rather than with material considerations, and in that connexion it was important not to set up too many bodies as that would only involve delay. An administrative tribunal would also be an advantage to the Secretary-General for, on the basis of the principle of the separation of powers, the Secretary-General's authority would not suffer since both he and the staff members would have agreed to entrust to the Tribunal cases of alleged non-observance of the terms of contracts of appointments.

76. He was convinced with regard to article 3 of the draft statute that the Advisory Committee had suggested the granting of certain powers of discretion to the Tribunal solely in the interests of the staff members. Cases might arise where disclosure of the reasons underlying a judgment might not be desirable for the staff member involved. Nevertheless, in view of the general feeling in the Fifth Committee on that point, he had no doubt that his colleagues of the Advisory Committee would be willing to withdraw their recommendation.

77. Mr. DE HOLTE CASTELLO (Colombia) suggested that the Secretariat should prepare a working paper showing the drafting changes in those articles of the draft statute to which certain delegations had submitted amendments.

The meeting rose at 1.20 p.m.

HUNDRED AND EIGHTY-NINTH MEETING

Held at Lake Success, New York, on Tuesday, 4 October 1949, at 10.45 a.m.

Chairman: Mr. A. KYROU (Greece).

Establishment of an administrative tribunal: report of the Secretary-General (A/986 and A/1003) (continued)

1. The CHAIRMAN said that the Fifth Committee would continue the examination of a proposal for the establishment of an administrative tribunal (A/986). He pointed out that the Secretariat, in accordance with a request made by the Colombian representative at the previous meeting of the Committee, had prepared a working paper (A/C.5/L.4) containing the amendments submitted by certain delegations to the draft

statute of the United Nations Administrative Tribunal. That document, which had been circulated to the Committee, contained an error. The quoted text of article 7 was not the original text of the article but the amended text submitted by the Belgian delegation. As further amendments had been submitted to the articles of the statute, the document prepared by the Secretariat would be redrafted and a revised edition issued.¹

2. He proposed that, in accordance with the request of the New Zealand representative made at the previous meeting, which he fully supported,

¹ Subsequently issued as A/C.5/L.4/Rev.1. The original document (A/C.5/L.4) was issued in Spanish only.

a member of the Staff Committee should be asked to explain the views held by the staff of the United Nations Secretariat regarding the draft statute of the Administrative Tribunal (A/986, annex I).

3. Mr. WEBSTER (New Zealand) stated that his delegation had received fresh instructions since the previous meeting of the Committee, and would be satisfied if the Staff Committee submitted its comments in writing.

4. Mr. SHANN (Australia) pointed out that he had supported the New Zealand proposal made at the previous meeting that a member of the Staff Committee should explain orally to the Fifth Committee the views held by the staff and said that his delegation was still of that opinion.

5. Mr. FIELD ROBINSON (United Kingdom), supported by Mr. ASHA (Syria), Mr. TARN (Poland) and Mr. MACHADO (Brazil), suggested that the representative of the Staff Committee should be heard prior to the general debate.

6. Miss WITTEVEEN (Netherlands), Rapporteur, said the views of the staff were already known to the Fifth Committee as they were set forth in the various memoranda submitted to the Secretary-General which had been transmitted to the Committee by the latter. She suggested, therefore, that a representative of the Staff Committee should be heard at the end of the general debate.

The Committee decided to hear the statement of the representative of the Staff Committee at the end of the general debate.

7. Mr. KHOSROVANI (Iran) said his delegation was in favour of the election of members of the Administrative Tribunal by the General Assembly rather than by the International Court of Justice. It agreed with the recommendation of the Advisory Committee on Administrative and Budgetary Questions (A/1003 paragraph 5) that article 10, and possibly article 13, of the draft statute should be so drafted as to make it clear that any award made by the Tribunal in connexion with a participating specialized agency should be paid by the agency itself. His delegation did not agree, however, that reasons on which judgment was based should be withheld. It felt that such a procedure would be prejudicial to the prestige of the Tribunal and harmful to the unsuccessful applicant. Article 12 should be re-drafted to make it clear that final approval of all amendments to the statute of the Administrative Tribunal rested with the General Assembly. The Iranian delegation had not been convinced by the explanations of the representative of the Secretary-General nor by those of the Chairman of the Advisory Committee when they stated that maintenance of the Appeals Board would lead to conflicts of competence. It felt that such an arrangement would facilitate and even reduce the Tribunal's work.

8. Mr. FEJIC (Yugoslavia) said his delegation had always been in favour of the establishment of an administrative tribunal, but could not support the proposed draft statute submitted to the Fifth Committee. The Yugoslav delegation considered that the competence of the Tribunal should not be limited to cases of alleged non-observance of contract but should extend to cases calling for disciplinary action, as provided in the Staff Committee's memorandum (A/986, annex IV). In the majority of democratic countries, decisions on disciplinary action were not taken

by the administration concerned but such cases were submitted to disciplinary courts which were impartial and objective. His delegation felt, therefore, that the Staff Committee's proposals should be studied further, especially when article 13 was discussed. The members of the Administrative Tribunal should be chosen by the General Assembly and not by the International Court of Justice.

9. Mr. Fejic agreed with the New Zealand representative that paragraph 2 of article 7 of the draft statute should be redrafted and that the words "sixty days" should be replaced by "thirty days". Article 8 should be deleted as its provisions would cause hardship to members of the staff receiving small salaries. He could not agree with the Advisory Committee that discretionary power should be granted to the Tribunal to withhold the reasons on which a judgment was based, as that was contrary to the practice followed in all civilized countries, and the explanations which had been given by the Chairman of the Advisory Committee in that connexion had not convinced his delegation that it should change its point of view.

10. The Appeals Board should continue to function and a disciplinary committee should be set up.

11. The Yugoslav delegation reserved its right to make further comments and proposals when the draft statute of the Administrative Tribunal was studied.

12. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) felt that the statement he had made at the previous meeting regarding paragraph 3 of article 11 of the draft statute had been misunderstood. He had pointed out at the time that the Advisory Committee had suggested that the wording of the paragraph should be changed solely with the idea of protecting the staff, but that the Committee would have no objection to the maintenance of the original text, i.e., "The judgments shall state the reasons on which they are based."

13. Mr. ROSCHIN (Union of Soviet Socialist Republics) whole-heartedly supported the proposal for the establishment of a body to arbitrate between the Secretary-General and employees on disputes relating to non-observance of contracts. He urged, however, that the name of the body should be more closely related to its functions. An administrative tribunal might be thought to be essentially concerned with disciplinary matters, yet the draft statute before the Committee made no provision for the Administrative Tribunal to deal with disciplinary cases. Some name such as "the Administrative Board (or Committee) to consider Claims by Staff Members" or "Complaints Committee" would more accurately reflect the structure and competence of the proposed body. The word "tribunal" was inappropriate, and some less pretentious word should be used.

14. With regard to the election of members of the Tribunal or Board, he endorsed the Advisory Committee's proposal that they should all be elected by the General Assembly, and urged that the manner of the election should be that used in the election of members of the Advisory Committee on Administrative and Budgetary Questions, the Committee on Contributions etc.

15. Article 2, paragraph 3 of the draft statute provided that, in the event of a dispute, the Tri-

bunal should itself be competent to decide the matter. The question of the limits of its competence seemed hardly for the Tribunal itself to decide, but for the body which had set it up, namely, the General Assembly; if necessary, the duty might be delegated to a subsidiary body, such as the Advisory Committee.

16. On matters of detail, his delegation considered it unnecessary to require an applicant to deposit a sum of money before his case could be heard by the Tribunal, and thought that it should be made easier for a staff member to apply to the Tribunal. He was strongly opposed to the suggestion that the Tribunal should be empowered to withhold the reasons for its decisions. Regarding the membership of the Tribunal, it seemed sufficient to provide for five members instead of seven, and thus effect economy in time and money. Mr. Roschin stated that his delegation would submit proposals to change the name of the Tribunal and to have its members elected by the General Assembly.

17. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions), replying to the USSR representative at the CHAIRMAN'S request, said that he was better able to speak in his capacity as Chairman of the Committee which had drafted the statute of the Administrative Tribunal than as Chairman of the Advisory Committee on Administrative and Budgetary Questions. He said that the title of the Administrative Tribunal could easily be changed provided its attributes were not affected. It was intended to be an august body enjoying the full confidence of the staff and able to relieve the Secretary-General of the burden of considering disputes arising out of alleged non-observation of contracts. To appreciate the place which the Tribunal was intended to occupy in the structure of the United Nations, the Committee should remember that it was to be a court, whose awards would be final and without appeal, to be approached only when all other means of redress had been exhausted by a member of the staff.

18. The suggestion that the Tribunal would not be the proper authority to judge the limits of its own competence was difficult to understand, since even committees normally established their own rules of procedure and competence. Moreover, should a claimant declare the Tribunal not competent to hear his case, a long delay might result before a decision could be obtained from the General Assembly, which, in any case, should not be bothered with such details. He hoped that the USSR representative would not press the point.

19. The deposit mentioned in article 8 had been proposed in order to limit the number of applications made to the Tribunal and exclude frivolous demands. Approach was intentionally made difficult unless the applicant had a good case. If the application was not frivolous, the deposit would be returned. The burden did not, therefore, seem a real one; but it was a minor matter and could easily be omitted.

20. The Special Committee established in 1946 had decided to recommend that there should be seven members of the Tribunal so as to permit simultaneous sessions in Geneva and Lake Success, even if one member were absent. If the number were reduced at all, four would be sufficient, as that number would provide for three judges at all times. The League of Nations Administrative Tribunal had had three members to deal

with a staff of about 800, and seven did not seem too many in view of the fact that the United Nations staff amounted to some 4,000, apart from the membership of other agencies who might agree to accept the United Nations Administrative Tribunal.

21. Mr. LEBEAU (Belgium) called attention to what had struck several members of the Committee as a contradiction in the statement made at the preceding meeting by the Chairman of the Advisory Committee. The latter had stated that he supported the adoption of a system of compulsory appeal to an organ composed on a parity basis, similar to those which had existed in the Secretariat of the League of Nations and in the International Labour Office, before appeal to the Administrative Tribunal. The Chairman of the Advisory Committee had then given his support to the proposals of the Secretary-General, which contemplated the abolition of the existing Appeals Board, and provided for direct appeal to the Administrative Tribunal. Those two positions were obviously incompatible.

22. Since then, the Secretary-General had referred to the Committee, in document A/C.5/L.4 new proposals for regulation 23 of the staff regulations, which on certain points, were fundamentally different from the original text, as it appeared in document A/986, annex II. In the second part of the first sentence of the new text, the Secretary-General provided for the establishment of administrative machinery to advise him on any claim by a staff member alleging a violation of his contract of appointment. That was the reintroduction of the preliminary appeal referred to in article 7 of the draft statute of the Tribunal. That fresh proposal was a great step forward. On the other hand, there remained some doubt as to the meaning of the first part of the Secretary-General's proposal. It said that the Secretary-General would establish administrative machinery to advise him on cases involving disciplinary action. Did the Secretary-General mean that that machinery was to be consulted before disciplinary action was taken, or was it to give an opinion on the appeal of a staff member after disciplinary action had been taken, or was that machinery to discharge both functions? If that machinery was intended to provide only for preliminary consultations, the Secretary-General's draft would result in depriving a staff member of a possibility of appeal, before an administrative organ, from disciplinary action after it had been taken, a right granted to the staff member under the existing text of regulation 23 of the staff regulations. He would be glad to receive explanations of that ambiguous wording from the representative of the Secretary-General.

23. Mr. FELLER (Secretariat) agreed that the new draft of regulation 23, sub-paragraph (b), represented a change in the position of the Secretary-General resulting from the earlier observations of members of the Fifth Committee. The wording of the first part of the sub-paragraph had been intentionally designed to permit the advice of the body to be sought either before or after disciplinary action was taken, as might be required. He pointed out that disciplinary action had been found necessary on very few occasions, and had been taken only after the greatest care had been exercised to ascertain the full facts. The Secretary-General was anxious to avoid too rigid a procedure, requiring absolutely that a disciplinary matter should be submitted to the Appeals

Board before the Administrative Tribunal could deal with it, but urged the adoption of a draft which would permit that step to be omitted if both parties to the dispute agreed. His purpose was principally to avoid the delay and inconvenience for the staff member which would result from two separate hearings.

24. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) endorsed the observations made by Mr. Feller.

25. In reply to the Belgian representative's question, he explained that all his observations concerning the need for an administrative tribunal had been based on the assumption that an internal committee analogous to the Judicial Committee of the League of Nations would be set up. If, however, the structure of the Administrative Tribunal was going to be changed so fundamentally as to destroy its essential nature, as defined in the draft statute, then he would prefer not to have such a tribunal at all, but rather to retain an Appeals Board.

26. Mr. COOPER (United States of America) asked whether it was generally understood that the Administrative Tribunal should have no competence in disciplinary matters.

27. Mr. FELLER (Secretariat) said that draft statute of the Tribunal, as it stood, provided that the Tribunal should deal only with cases relating to alleged non-observance of contracts. The appeal machinery for disciplinary cases was to be the less august body within the Secretariat, which was to be consulted either before or after the disciplinary action was taken.

28. Mr. COOPER (United States of America) asked whether there was to be any right of appeal to the Administrative Tribunal on disciplinary cases that had been considered by the Secretary-General's joint disciplinary board.

29. Mr. FELLER (Secretariat) said that there was no intention to provide for such appeal, which would amount to interference in the competence of the Secretary-General. He drew attention to annex II of document A/986 containing sub-paragraph (a) of the revised regulation 23 proposed by the Secretary-General, which read as follows:

"(a) An Administrative Tribunal shall be established to hear and pass judgment upon applications from staff members alleging non-observance of the terms of their appointments."

Sub-paragraph (b) as revised in document A/C.5/L.4 would follow immediately thereafter.

30. Mr. FIELD ROBINSON (United Kingdom) strongly favoured the institution of machinery for the satisfactory adjustment of legitimate grievances felt by members of the staff. In the United Kingdom civil servants were not employed under contract, but in practice disputes were regulated through Departmental Whitley Councils, on which both management and staff were represented, and by the National Whitley Council. Certain disputes might be referred to a Court of Arbitration consisting of a legally-qualified president and lay members drawn from two panels, respectively made up of Government nominees and representatives of the staff interests concerned. In principle, therefore, the establishment of an Administrative Tribunal was entirely acceptable.

31. With regard to method, however, there were serious objections to the draft statute under consideration. According to that statute, the Tribunal would be called upon to interpret, *inter alia*, staff regulations, which were subject to approval by the General Assembly, and staff directives made by the Secretary-General. Such a practice seemed likely to lead to serious administrative embarrassment. Further, article 10 contained no provision for "nil payments" or for any financial penalty should the employee be judged guilty of violation of contract. Another difficulty would arise in the determination of compensatory awards in the case of indeterminate contracts being terminated on such grounds as redundancy. On those and other matters it was hoped that the advice of the Sixth Committee would be sought before the text of the statute was submitted to the General Assembly in plenary session.

32. Since good administration was a matter of heart as well as head, and since many rules and office directives were never intended to be interpreted as strictly legal documents, it might be wise to provide for the introduction of a lay element in the Tribunal.

33. The sovereign rights of the General Assembly, particularly in connexion with staff employment in emergencies or conditions of exceptional difficulty, did not seem adequately safeguarded, in view of the wide financial powers to be invested in the Tribunal.

34. It was not clear whether, in the case of what were termed "old contracts", the terms of the contracts related to regulations in force at the time of the appointment, and if so, how they were coordinated with the provisions of article 2 of the statute. His delegation also wished to know whether executive measures relating to salaries, allowances etc., taken as a result of the recommendations of the Committee of Experts on Salary Allowances and Leave Systems, could be made the subject of applications to the Tribunal, and whether changes in staff subsistence rates for countries where the currency had been revalued would similarly lead to such applications.

35. With regard to disciplinary cases, an intermediary court of appeal seemed advisable, before the cumbersome machinery of the purely judicial tribunal had to be invoked.

36. All the above considerations showed that further study of the administrative and financial consequences was required before the Committee reached final decisions concerning the Administrative Tribunal. Conditions of employment were not yet stable and would necessarily undergo further change. Where questions of law only were involved, there might be a case for the establishment of a tribunal for staff questions; in the absence of screening machinery—except in disciplinary cases—however, the Tribunal might be required to carry too great a burden. Until various questions of acquired and existing rights were defined *vis-a-vis* the Tribunal, the preliminary study could not be considered complete. The fact that the relevant documents had been distributed only a short time before the discussion opened had further hindered the proper study of the question.

37. The United Kingdom delegation therefore supported the United States proposal that the question of an Administrative Tribunal should be postponed until a clearer appreciation of the Secretary-General's proposal had been made.

38. The CHAIRMAN enquired whether the United Kingdom representative wished formally to propose the postponement of the debate.

39. Mr. FIELD ROBINSON (United Kingdom) thought that a decision might be postponed until later in the session, or even until the next session of the General Assembly, although not necessarily indefinitely as the United States representative had suggested.

40. Mr. COOPER (United States of America) stated that his delegation felt that all arguments should be heard before the proposal for indefinite postponement, which they intended making, was formally moved.

41. Mr. TARN (Poland) drew attention to the remarks made by the Chairman of the Advisory Committee as to the possibility of direct appeal to the Tribunal. The establishment of an Administrative Tribunal was contemplated, not because of any dissatisfaction with the Appeals Board, but because the latter was a purely advisory body. The staff member needed the additional security of knowing that his case would, if need arose, be considered by an independent body. The ideal position would be if the Tribunal were never called upon to meet (the body set up by the League of Nations had met only rarely).

42. He failed to see that the question required any further study. The Secretariat staff were themselves eager for the establishment of the Tribunal. He appealed to the Committee to maintain the Appeals Board as constituted, and to establish the higher body immediately.

43. Mr. MACHADO (Brazil) thought that a decision on principle should be taken before discussing the details of the Tribunal's operation. He considered the statement made by the Secretary-General's representative, to the effect that the Tribunal's competence would not extend to applications concerning disciplinary action, somewhat of a contradiction. For disciplinary matters there was already the Appeals Board, and there would later be the special advisory machinery which was under discussion. Both these bodies, however, were merely advisory, the decision itself resting with the Secretary-General. It followed that the only alternative for a staff member who did not accept the Secretary-General's ruling was to appeal to the Administrative Tribunal, whatever the subject in dispute, since the Tribunal was the only independent organ.

44. Mr. MONTEL (France) proposed that a vote be taken on the United Kingdom proposal; it was in the interests of clarity for a vote to be taken first on the question of principle.

45. His delegation would be prepared to support the establishment of an administrative tribunal, on the understanding that the authority and discipline necessary for the functioning of the Secretariat would be maintained.

46. Mr. FELLER (Secretariat), replying to the point raised by the Brazilian representative, summarized the Committee's opinion as expressed in the course of debate. The view generally held at the last meeting had been that the Tribunal should not deal with matters arising from disciplinary action; it had, however, been pointed out that article 2 of the draft statute, as it stood, allowed the Tribunal to deal with disciplinary action in which a breach of contract was involved.

47. At the present meeting he had stated that the Tribunal would not be competent to deal with more general matters arising from disciplinary action; the new proposals made no change in this principle. The proposal for the Administrative Tribunal to be given general competence with regard to appeals occasioned by disciplinary action would, he felt — and this he thought was also the feeling of the Advisory Committee and of the Fifth Committee itself — constitute an unfortunate encroachment on the Secretary-General's powers.

48. Mr. COOPER (United States of America) emphasized that his delegation were not opposed to the principle of creating an administrative tribunal; they thought, however, that in the early years of the United Nations Organization it was better to give thought to the problem and to postpone action. The special Advisory Committee and the Secretariat had provided considerable material for study. He personally found the general debate very helpful and did not wish to make a formal proposal until the subject had been thoroughly discussed.

49. Mr. VOYNA (Ukrainian Soviet Socialist Republic) found it difficult to participate in the general debate without having heard the views of the Staff Committee representative; he proposed that the latter should be heard.

50. Mr. SHANN (Australia) supported the United Kingdom proposal for a short postponement, and the French proposal for an early vote on the principle involved. He protested at the fact that the document under discussion had been distributed only thirteen days previously. He thought, moreover, that the representative of the Staff Committee should be heard, as also the representatives of any specialized agencies, since it was proposed to extend the Tribunal's competence to the latter also.

51. Mr. LARRAÍN (Chile) thought that no one could question the principle of an administrative tribunal, since it had been recommended by the Preparatory Commission and approved by the First General Assembly (resolution 13 (I)).

52. Mr. FOURIE (Union of South Africa) supported the Australian proposal, and also the United Kingdom's contention that insufficient time had been given to the study of the question. He suggested that further discussion should be postponed until after the discussion of the budget; this would allow time for reference to Governments and would also meet those delegations who wished for a decision at the present session.

53. Mr. FIELD ROBINSON (United Kingdom), although he desired that a more detailed study, particularly of the administrative aspects, should be undertaken for the next session, was prepared to support the South African proposal.

54. Miss WITTEVEEN (Netherlands) suggested that the list of speakers should be closed and that, after the hearing of the Staff Committee's representative, discussion should be postponed either, as the South African representative had proposed, until after discussion of the budget, or for four weeks.

55. Mr. BADANO (Uruguay) thought that a postponement beyond the session would be most regrettable. The opportunity of establishing a body to assure the rights of the staff should not be neglected.

56. He agreed that it would be useful to hear the Staff Committee's representative.

57. Mr. TARN (Poland) expressed his surprise that some delegations should desire postponement of the debate. The question had been with the United Nations for three years, and there seemed to be, moreover, a consensus of opinion as to the advisability of establishing the Tribunal. The staff were entitled to the fulfilment of the Secretary-General's promise and to an organ which had been under discussion for so long. He supported the French proposal that a vote should be taken on principle.

58. He furthermore proposed that a sub-committee should be set up to work out details of organization and report its findings to the Committee, after the discussion of the budget.

59. Mr. MACHADO (Brazil) urged that the Committee should first give some ruling as to the competence of the Tribunal.

60. Mr. TARN (Poland) formally proposed that a vote should be taken on (a) the principle of establishing an administrative tribunal and (b) the setting up of a sub-committee to consider its organization.

61. Mr. SMOLYAR (Byelorussian Soviet Socialist Republic) proposed that the meeting should be adjourned.

62. *After a short discussion on procedure in which the South African, Belgian, Chinese and Swedish representatives took part, the Committee unanimously adopted the Byelorussian motion of adjournment.*

The meeting rose at 1.10 p.m.

HUNDRED AND NINETIETH MEETING

Held at Lake Success, New York, on Wednesday, 5 October 1949, at 3 p.m.

Chairman: Mr. A. KYROU (Greece).

Establishment of an administrative tribunal: report of the Secretary-General (A/986, A/986/Add.1 and A/1003) (continued)

1. The CHAIRMAN stated that the Committee was called upon to discuss the joint proposal submitted by the delegations of Australia and the Union of South Africa (A/C.5/L.5), and the proposal of the delegation of Poland (A/C.5/L.6). In view of the fact that the joint proposal submitted by the delegations of Australia and the Union of South Africa called for a postponement of the study of the establishment of an administrative tribunal until the Committee had concluded its debate on the budget, the Chairman thought that that proposal should be voted upon first. As, however, the Committee had decided, at the previous meeting, to hear a statement by the representative of the Staff Committee, the Chairman asked the authors of the two proposals if they had any objection to hearing that statement before a vote was taken.

2. Mr. SHANN (Australia) and Mr. FOURIE (Union of South Africa) said they had no objection, as they wished to know the views of the Staff Committee on the question. They also wished to know if the representatives of the specialized agencies had anything to say on the matter.

3. Mr. TARN (Poland) called the Chairman's attention to rule 105 of the rules of procedure, which stated that a motion for adjournment had to be put to the vote after two speakers had spoken in favour of, and two against, the motion.

4. The CHAIRMAN stated that he was ready to apply rule 105 immediately after the statement by the representative of the Staff Committee.

5. Mr. TARN (Poland) pointed out that he would be the last to refuse to hear the representative of the Staff Committee, but indicated that he wished to stress the irregularity of the procedure adopted.

6. Mr. LEBEAU (Belgium) pointed out that the joint proposal of the delegations of Australia

and the Union of South Africa was not a motion for adjournment according to the meaning of rule 105. It was a written proposal concerning which certain delegates might wish to make some remarks.

7. Mr. EPSTEIN (Chairman of the Staff Committee) thanked the Committee on behalf of the members of the Secretariat for the opportunity given him to submit the Staff Committee's views on the question under discussion. He also expressed the gratitude of the staff of the United Nations Secretariat to the Secretary-General and the Assistant Secretary-General in charge of the Department of Administrative and Financial Services, who had proposed that the Staff Committee should draw up a memorandum, which would be attached as an annex to the Secretary-General's report. That unusual procedure was a welcome innovation, which could not fail to strengthen the good relations already existing between the Administration and the staff. The Staff Committee was happy to note that the Administration and the staff were agreed as to the desirability of establishing an administrative tribunal during the current session of the General Assembly. In fact, ever since the initial plan was brought forward at the first session of the General Assembly, the Staff Committee had looked forward impatiently to its realization. The name of the proposed body and its structure mattered little; the essential point was that it should be established at the current session.

8. The members of the Committee were not unaware that one of the main problems of the members of the staff resulted from their deep-seated sense of insecurity. That feeling persisted in spite of the great efforts of the General Assembly, the Secretary-General and the Assistant Secretary-General in charge of the Department of Administrative and Financial Services to allay their fears. Such a feeling was doubtless inevitable in an organization such as the United Nations, where the Secretariat included some 4,000 members from fifty different countries. The background, mentality and way of living of all those members were extremely varied. Furthermore,