

metric system, in order to assist the Council in its work.

105. In reply to a question from the PRESIDENT, Mr. DUSSAUT (Argentina) said he would accept the procedure recommended by the Belgian representative.

106. Mr. GERIG (United States of America) said that the Council should consider the suggestions of the representative of Argentina carefully before requesting Administering Authorities to supply the metric equivalents of units and measures appearing in their annual reports.

107. Mr. RYCKMANS (Belgium) said that he envisaged that when, for example, a report contained figures on production, the equivalent figure in metric tons should be given in brackets. In a word, metric equivalents should be supplied only in the case of statistics.

108. Administering Authorities for Trust Territories would not be able to give effect to such a recommendation in the case of money values, but would endeavour to do so in the case of other units of measurement.

109. Mr. DUSSAUT (Argentina) confirmed that his original proposal had related solely to weights and measures.

110. The PRESIDENT declared that, if there were no objection, the sub-section would not be included in the section, but would form the subject of a general recommendation to all the Administering Authorities concerned.

It was so agreed.

Part II, as amended, of the section on the Cameroons under British administration for inclusion in the Council's report to the General Assembly, was adopted.

111. The PRESIDENT asked members of the Council to transmit to the Secretariat, before 27 March 1950, any observations they wished to have included in part III of the section on the Cameroons under British administration.

112. He added that, as there had been no comment on part I, which was merely a summary of the annual report submitted by the Administering Authority, it could be considered as adopted.

113. Mr. FLETCHER-COOKE (United Kingdom) said that it would not be possible for his delegation to indicate which of its observations it wished to be mentioned in part III, until it had been informed as to what other delegations wished to have included in part III.

The meeting rose at 6.10 p.m.

271st meeting

SIXTY-NINTH MEETING

*Held at the Palais des Nations, Geneva,
on Friday, 24 March 1950, at 10.45 a.m.*

President : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

Observers from the following countries : Egypt, Israel, Hashemite Kingdom of the Jordan, Syria.

119. Question of an international regime for the Jerusalem area and Protection of the Holy Places (General Assembly resolution 303 (IV) of 9 December 1949) (T/118/Rev.2, T/423 and T/L.67) (resumed from the 67th meeting)

(a) TRANSITORY PROVISIONS (T/L.67)
(continued)

Arab refugees

1. The PRESIDENT invited comment on the two subparagraphs of paragraph A. 2 in document T/L.67; both had been suggested by the representative of Egypt.

2. Mr. RYCKMANS (Belgium) was of the opinion that the word "refugees" should be substituted for the phrase "Arab and other refugees" in the first line of sub-paragraph (a). Whilst the Council was prepared to proclaim and defend the rights of persons forced by the pressure of events to leave their homes, it was concerned with them as refugees and not as members of a particular race or religion.

3. The ideal solution no doubt would be to repatriate the refugees and restore their property to them. He feared, however, that a rigid application of that principle would hinder rather than help in the settlement of the problem. The fact had to be faced that in practice the repatriation of all the refugees might not be feasible. On the other hand, it was entirely feasible to afford all refugees just and equitable compensation for the losses they had suffered. For that reason, he thought it preferable to say : "The refugees . . . shall be restored to their property or will receive just and equitable compensation for the damages they have sustained . . .".

4. The PRESIDENT reminded the Council that the United Nations Conciliation Commission for Palestine, the body entrusted by the United Nations with the solution of the refugee problem for the whole of Palestine, already had the entire question under consideration.

5. Mr. EBAN (Israel) submitted that the question of liability for war damage was not a question confined to Jerusalem. The hostilities that had been launched in Jerusalem as an answer to General Assembly resolution 181 (II) dated 11 November 1947 had been only part of the general operations launched throughout the country to prevent the State of Israel coming into existence. The solution of the questions of liability and indemnity was, therefore, one part of the general effort of conciliation. It was one of the questions on which the Governments concerned had been invited by the General Assembly in its resolution 194 (III) to seek agreement by negotiation. As soon as those negotiations were entered into, the question of liability and indemnity could be discussed.

6. Even then, however, he could not see how it would be possible to separate the question of liability and indemnity for property in Jerusalem from the general

question of liability and indemnity arising out of the hostilities. His Government's counter-claims for war damage, and for destruction of the Jewish quarter of the Old City of Jerusalem, would be presented when those discussions took place.

7. Similarly, the question of resettling the refugees and of compensating those refugees who did not return was being discussed in the Conciliation Commission and the organs related to it. If rules were laid down by the Trusteeship Council it would be uncertain whether it would be profitable to attempt to negotiate elsewhere. The Council should examine the question of competence and jurisdiction and reach conclusions as to the proper auspices for such discussions.

8. Abdel Monem MOSTAPHA Bey (Egypt) asked what the Belgian representative considered to be the insuperable obstacles to the return of the refugees.

9. He emphasized that the Council, in carrying out its task of drawing up a permanent Statute for the City, should be guided by the principles set forth in the United Nations Charter and reaffirmed in the Universal Declaration of Human Rights. To put obstacles in the way of the return of refugees to their homeland was contrary to those principles.

10. He was of the opinion that the Trusteeship Council was not competent to deal with questions outside the scope of the mandate given to it by the General Assembly—namely, the preparation of an international Statute for the city; it was not competent to deal with the war damage question, in which political considerations were involved.

11. On the other hand, the right of refugees to return to their country had been formally recognized by several United Nations resolutions such as General Assembly resolution 194 (III) of 11 December 1948, which had set up the United Nations Conciliation Commission for Palestine, and General Assembly resolution 302 (IV) of 8 December 1949, which had provided for the establishment of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

12. Although he had not the right to vote, he felt obliged for the reasons stated to maintain his proposals. He was convinced that the objective of the United Nations—namely, the re-establishment of peace and stability in the Jerusalem area, could not be attained so long as all refugees from Palestine as well as from Jerusalem, had not been enabled to return to their countries and their homes.

13. Mr. RYCKMANS (Belgium), replying to the representative of Egypt, said that he was not able to define the insuperable obstacles which might stand in the way of a return of refugees to their homes. However, as no assurance had been given that the refugees would, in fact, be able to go back, it would not in his opinion be wise to enter into any commitments in that connexion.

14. The representative of Egypt had questioned the competence of the Trusteeship Council to settle the war-damage question, yet the Council's competence in

that respect seemed to be admitted in sub-paragraph (a) of the Egyptian suggestions at present under consideration.

15. Mr. SHUKAIRY (Syria) said the problem was one of paramount importance and, as the Belgian representative had remarked, was not confined to Arab refugees, although most of the refugees were Arabs. Its solution was fundamental to the Statute the Council was drafting in that it would help promote peace in the Holy City. He did not wish to weary the Council with the history of the matter nor would he develop at length the plight of those unfortunate refugees. He would merely place before the Council certain salient facts in the situation.

16. In paragraph 3 of part one, section V of his Progress Report,¹ the United Nations Mediator on Palestine had said that from the start he had held the view "that, taking into consideration all the circumstances, the rights of Palestine refugees to return to their homes at the earliest practicable date should be established". In paragraph 6 of the same section, the Mediator had gone on to declare that "It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes while Jewish immigrants flowed into Palestine. Again, in paragraph 3 of his conclusions (part one, section VIII, of his Progress Report) the Mediator submitted that "The right of innocent people, uprooted from their homes by the present terror and ravages of war, to return to their homes, should be affirmed and made effective."

17. It was on the basis of the United Nations Mediator's conclusions that the General Assembly had framed its resolution 194 (III), in paragraph 11 of which it resolved that "refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return."

18. He drew the particular attention of the Belgian representative to the fact that the resolution referred to compensation to be paid to those choosing not to return and not to compensation to those who decided for some reason or other that it was impossible for them to return.

19. He also recalled the terms of paragraph 2 of article 13 of the Universal Declaration of Human Rights (General Assembly resolution 217 (III), where it was stated that everyone had "the right to leave any country, including his own, and to return to his country". Again, General Assembly resolution 302 (IV) of 8 December 1949 establishing the United Nations Relief and Works Agency for Palestine Refugees in the Near East reaffirmed their right to return to their homes.

20. The presumption was, therefore, that the refugees had a clear right to return to their homes. If there was

¹ See *Official Records of the third session of the General Assembly*, supplement No. 11.

any doubt on the matter, that doubt must be based on information as to the possibility of their returning home. His delegation would be glad to have any such information and to check its accuracy.

21. The question of a vote simply did not arise; no delegation by its vote could deny refugees the right to return to their home, for a long line of General Assembly resolutions upheld that right. The Council should adopt unanimously a resolution in favour of the repatriation of Palestine refugees, the restoration or restitution of their property and their indemnification. General Assembly resolutions had already supported repatriation, restoration and compensation, so that there was no alternative open to the Council.

22. Mr. Eban had stated that it was for the Council to decide on the question of its competence and had referred the Council to the General Assembly resolution appointing a Conciliation Commission, part of whose terms of reference dealt with repatriation and resettlement of refugees. In his view, that resolution affected all Palestine refugees, excluding those of the area of the proposed *corpus separatum*, and that for two reasons. In the first place General Assembly resolution 303 (IV) had subsequently established the Trusteeship Council as the Administering Authority and it would be ridiculous to say that the Conciliation Commission had the task of conciliation between the Trusteeship Council and the occupying authorities on the question of repatriation of refugees; that would mean seriously impairing the status of one of the most important organs of the United Nations. Secondly, if, as the General Assembly had provided, the Statute for the City was to be the constitution of the City, no occupying authority could have jurisdiction there. The question of the repatriation of the refugees was therefore undeniably within the competence of the Council.

23. So far, all that had been done was that the General Assembly had created an Administering Authority. The question was, who were the people to be administered. It was ridiculous for the Trusteeship Council to administer a city without inhabitants. If there were no people it would also be impossible to set up the machinery that was being provided for in the Statute for the administration of the City. The Council was working for one purpose—namely, to further the interests of the people of Jerusalem. The welfare of the refugees from the City was therefore a sacred trust for the Council, which should provide for their return to their homes and the introduction of conditions that would promote peace in the Holy City.

24. He submitted further that the holiness of the City or of any Holy Place depended on the prayers of those who worshipped there. Holy Places without worshippers would become mere museums.

25. In his view, therefore, the Council was competent to deal with the problem and he urged it not to close its session before affirming the right of the inhabitants of the City to return to their homes.

26. The PRESIDENT pointed out that the Council was not at liberty to discuss the substance of the problem

but should merely consider its practical aspects, in the light of the directions given by the General Assembly in the resolutions referred to by the representatives of Egypt and Syria. He read out paragraphs 9, 10, 11, 12, 13, 14 and 15 of General Assembly resolution 194 (III) of 11 December 1948, and observed that in that resolution the words "authorities concerned" referred to the authorities of Jerusalem, and not to the two Governments concerned. According to the terms of the resolution the Conciliation Commission was instructed to study both the general and the practical aspects of the problem. Furthermore, it should not be overlooked that paragraph 11 of the resolution distinguished between refugees wishing to return to their homes and those choosing not to return. It was laid down that those choosing not to return should be paid compensation for the loss of their property.

27. Mr. AQUINO (Philippines) recalled the remarkably humanitarian spirit that had pervaded the debates in Paris when the General Assembly had discussed the Palestine refugee problem and had decided to provide relief for the unfortunate victims of the hostilities that had taken place in Palestine. The General Assembly had risen above the conflict, moral considerations transcending the political. He asked the Council to approach the Egyptian suggestions before it in the same humanitarian spirit.

28. One of the interesting points that had been raised in the discussion was the question of the competence of the Council to deal with the problem of those refugees. Two points of view had been put forward; on the one hand a serious doubt had been expressed as to the Council's competence on the grounds that a special commission had been charged with the general problem of refugees in Palestine; on the other hand, it had been submitted that, when the General Assembly had adopted its resolution providing for the internationalization of Jerusalem, it had by implication charged the Trusteeship Council with responsibility for all questions relating to Jerusalem, including that of refugees. The question of the refugees was, in his view, an integral part of the whole problem that had been entrusted to the Trusteeship Council. Both legally and morally the Council was competent to deal with it.

29. The Belgian representative had raised the question whether by adopting the Egyptian suggestions the Council would be compelled to provide for the return of the refugees to their former homes. Those suggestions sought in the first place to establish the refugees' right to return, in the second place to ensure for them equitable indemnity or compensation for loss sustained by seizure or by confiscation of their property and in the third place to secure facilities for their return. The refugees' right to return to their homes would have to be established by the Council. Those not choosing to return would not be obliged to do so; and the Trusteeship Council would be under no obligation to secure their return.

30. It was also clear that the General Assembly was committed to restore their property and to compensate

them for the damages they had sustained. The dispositions in that respect were general dispositions applying to all Palestine refugees, so that by adopting the Egyptian suggestions the Council would be merely making those general dispositions expressly applicable to Jerusalem.

31. His delegation had no objection to the textual modifications proposed by the Belgian representative if such changes enabled him to support the Egyptian suggestions.

32. Abdel Monem MOSTAPHA Bey (Egypt) thanked the President for reading the provisions of General Assembly resolutions 194 (III) which related to the refugees, and the Philippines representative for speaking in the refugees' defence.

33. In answer to the comments of the Belgian representative, he observed that his proposal did not deal solely with Arab refugees but spoke of "The Arab and other refugees who inhabited the area of Jerusalem up to 29 November 1947". Its aim was to secure compensation for refugees who had lived in Jerusalem up to 29 November 1947 and who had property in Jerusalem and returned home; whereas General Assembly resolution 194 (III) dealt only with compensation payable to refugees not returning home. The compensation referred to in his proposal was intended to make up for damage caused to refugees' property during their absence by occupation or confiscation.

34. Referring to the Belgian representative's contention that the return of all the refugees seemed no longer feasible, he drew attention to two earlier statements by that representative. In the first, made when the *corpus separatum* had been defined, the Belgian representative had seemed to admit that refugees temporarily absent from Jerusalem were entitled to be consulted on the future of the City. He himself had therefore been astonished at the present meeting to hear the Belgian representative cast doubt on the right of refugees to return home.

35. Mr. Ryckmans had also previously declared that he could not see how it would be possible to insert in an international instrument a provision forbidding all immigration into the Jerusalem area from the date of entry into force of the Statute, since such a provision would be contrary to human rights. Did not the Belgian representative think that it would be contrary to the provisions of the Universal Declaration of Human Rights to prevent the refugees from returning home?

36. In any event, the General Assembly resolutions concerning refugees were very clear in dealing with their rights, and there was no doubt, as the President had very properly remarked, that the Trusteeship Council had competence to consider the question.

37. Mr. HOOD (Australia) stated that in view of the fact that in the form in which it had been provisionally accepted at the thirty-ninth meeting, sub-paragraph (b) of article 8 recognized the right of refugees to return

to their homes, there was no need for an additional transitory provision of the kind suggested by the Egyptian representative. The Council would do well to follow the lead given it by the General Assembly at its fourth session in treating Jerusalem and refugees as quite separate problems. As the Israeli representative had pointed out, measures for assistance to refugees were already in hand under the direction of the agencies concerned. Indeed, the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East would arrive in Geneva in the following month for discussions with the Conciliation Commission. While fully appreciating the humanitarian aspect of the problem, he considered it unnecessary and inadvisable to insert a provision regarding refugees in the Statute, and it was indeed doubtful whether the Council was competent to do so. If any further administrative provision had to be made in addition to that contained in article 8, sub-paragraph (b) which recognized the refugees' status as residents of the City, it could be incorporated in the instructions of the Trusteeship Council to the Governor.

38. Mr. SAYRE (United States of America) stated that there was universal awareness of the cruel sufferings undergone by the refugees. Their plight was tragic and pressing, and it stirred the hearts of all. No Government had been more profoundly concerned in their re-settlement or had contributed more generously in funds and material resources than his own. It had always consistently supported the measures taken by the United Nations for the alleviation of the hardships of refugees and it would continue to support and forward any further steps that were taken. It had participated in the important work performed by the Conciliation Commission and was taking part in the activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The General Assembly's resolution of 8 December 1949, setting up the latter body, resolution 302 (IV), had been adopted unanimously and his delegation was convinced that its objectives were wholeheartedly endorsed by the majority of the Members of the United Nations.

39. He did not however believe that the Council, which was acting under the restrictive instructions of General Assembly resolution 303 (IV), was the proper body to deal with the problem of refugees with all its wide and complicated ramifications. The magnitude of the problem was reflected in General Assembly resolution 302 (IV). Clearly enormous sums would be involved as it was indicated under paragraph 6 of that resolution that \$20,000,000 would be required for direct relief for the period 1 January to 31 December 1950. He was as anxious as anyone that action should be taken to assist refugees under the terms of that resolution. However, he doubted whether the Egyptian suggestions were acceptable in so far as the Council had been charged with framing a constitutional Statute for the City and had not been asked to legislate on complex matters concerning Palestine as a whole. Other bodies, such as the Conciliation Commission and the United Nations Relief and Works Agency for

Palestine Refugees in the Near East, were already dealing with the problem of refugees as a whole. For that reason, if the Egyptian suggestions were put to the vote, he would be obliged to abstain.

40. Mr. DE LEUSSE (France) thought there was no objection to inserting a provision concerning the refugees in the transitory provisions of the Statute for Jerusalem. Nevertheless, in view of what had been said by the Israeli representative and other speakers, he urged the Council not to give the Governor instructions which might conflict either with any decision taken in that matter by other United Nations bodies or with any provision of an agreement between the States concerned.

41. For those reasons, he proposed the following text,² the first part of which contained the necessary provisos and the second took up the actual wording of General Assembly resolution 194 (III): "Subject to any decision which may be adopted by organs of the United Nations or to any agreement which may be concluded between the States concerned regarding the problem of the Palestine refugees, the Governor of the City shall facilitate the repatriation, resettlement and economic and social rehabilitation, as well as the payment of any indemnities which may be due to them, of persons who, on 29 November 1947, were ordinarily resident in the City and were compelled to leave it as a result of the events occurring there after that date".

42. Mr. JAMALI (Iraq), after declaring his readiness to move the Egyptian suggestions in the name of his own delegation, stated that he did not subscribe to the doubts expressed by some speakers as to the competence of the Council to deal with matters relating to refugees. The responsibility for the whole problem of Jerusalem with all its related aspects had been placed upon the Council by the General Assembly and had now been entirely separated from that of Palestine as a whole. The Council, therefore, had full authority to deal with all matters affecting the administration of the City and the welfare of its inhabitants.

43. The political implications of the problem of refugees should always be subordinated to humanitarian considerations, since the refugees had become victims of political events for which they had no responsibility. The Council's obligations towards the people of the City were not legal and political only, but moral as well, and the manner in which it dealt with refugees was the touchstone of its moral conscience. The General Assembly, in resolutions 212 (III) and 302 (IV), had recognized the right of refugees to return to their homes or if they did not wish to do so, to obtain compensation. From a legal point of view no one could question those rights. The Council's duty, however, went further. It was to devise practical measures in order to translate those rights into reality. A general settlement of the problem of refugees from the City was the supreme test of the Council's good faith in carrying out its responsibilities for the City. And, in

taking the preparatory measures for the City's internationalization, the Council was bound to make sure that the necessary arrangements were made enabling refugees from it to return. The General Assembly decision concerning the City had made the resettlement of the refugees from it an entirely separate problem from that of other Palestinian refugees, whose future was still causing disagreement and might require at a future date the intervention of the Conciliation Commission.

44. The Council had been informed by Mr. Eban that there was no need for the internationalization of Jerusalem and that perfect peace reigned there. He (the Iraqi representative) was astounded to hear such an assertion and wondered why, if it were true, the refugees were not returning to the City. He was anxious that it should be known throughout the world who was responsible for preventing their return. Nor could the Council ignore the fact that the property of the inhabitants of the City was not being safeguarded. He had already made reference (58th meeting, paragraph 34) to a report in the *New York Times* that a law had been passed enabling the custodians of property of absentee owners to sell and rent the property of Arabs, both Christian and Moslem, throughout Palestine, including Jerusalem. While such victimization in an area for which it was responsible was occurring, the Council could not be regarded as fulfilling its proper functions. Such indifference was a betrayal of its own high moral standards.

45. The Australian representative had suggested that the resettlement of refugees was the duty of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, but it should be remembered that the functions of that officer were to assist refugees wishing to settle elsewhere and that he was not particularly concerned with the former inhabitants of Jerusalem as such. While appreciating the remarks made by the United States representative concerning his Government's sympathy with the plight of refugees and its contribution towards their assistance, he would have thought that for Governments with high moral standards that was a natural response to the Palestine tragedy. The Conciliation Commission, as he had already indicated, had no responsibility for settlement of problems involving Jerusalem itself. Although the agencies specifically concerned with refugees might assist the Council in making arrangements for the return of the people to the City, that in no way exonerated the Council from the full responsibility which fell to it, now that the City had been placed under United Nations sovereignty. Not only were there statutory obligations making the Council responsible for the welfare and destiny of the inhabitants of the City; it had also a moral commitment towards them, and he reiterated that it was no less its duty to take action at once for the relief of refugees, for their immediate return and resettlement in their place of residence than it was its duty to take measures for the protection of church property and religious institutions without waiting upon the implementation of the Statute. Such action would provide a practical demonstration that

² Subsequently reproduced as document T/L.71.

the City had effectively been removed from the sphere of conflict between the occupying authorities.

46. The PRESIDENT repeated that it was not for the Council to discuss a matter of substance which had already been settled by decisions of the General Assembly. Paragraph 11 of General Assembly resolution 194 (III) completely covered the refugee problem. The Council had at the moment to consider how the General Assembly's decisions could be applied in practice. The Egyptian representative's suggestions provided for the payment of compensation to refugees and laid on the Governor the task of implementing that provision, but did not specify the funds with which he should do so. He himself wondered whether the expense would fall on the municipality of the City or the United Nations. That was a financial problem which would have to be solved.

47. The Conciliation Commission for Palestine was at that moment examining the problem of compensation to be paid to refugees. It had not yet reached a practical solution; but, as regards refugees on Israeli or Jordan territory, it contemplated the creation of a joint fund into which each of the two States should pay a sum to be fixed. The question was what fund would provide compensation for refugees from Jerusalem on the assumption that the Council decided to separate the City from both those countries.

48. He requested the Council not to prolong the debate needlessly, but to proceed at once to study the practical provisions which would have to be inserted in the transitory provisions of the Statute.

49. Mr. AQUINO (Philippines) felt that the time had come when the Council must either go forward boldly or relinquish its responsibilities. The Australian representative had expressed misgivings concerning the advisability of inserting a provision of the character desired by the Egyptian representative on the grounds that it might trespass upon the Conciliation Commission's field of action. He (the Philippines representative) did not share that doubt.

50. The Egyptian suggestions quite rightly sought to establish a principle which had been unequivocally recognized by the General Assembly in its decisions on the problem of Palestine refugees, and which the Conciliation Commission was only concerned with devising means to implement. The Council was not faced with a question of measures for temporary relief but with the basic issue of the rights of refugees to re-settlement and compensation. The Egyptian suggestions represented an attempt to cure a deep and malignant evil.

51. Mr. RYCKMANS (Belgium) stated that the right of the refugees had not been placed in issue: they had an indisputable right to return home and re-enter into possession of their property. Unhappily, there was a difference between the existence of a right and the practical possibility of exercising it. A decision of the General Assembly or of the Trusteeship Council was not sufficient to settle the problem of the Palestine refugees. The General Assembly had itself recognized

that fact clearly, since, while unreservedly affirming the rights of refugees, it had instructed the Conciliation Commission for Palestine to encourage negotiations between the neighbouring States, and had set up the United Nations Relief and Works Agency to provide for the economic rehabilitation of refugees who for any reason were unable to return home.

52. He drew the attention of the Philippines representative to the fact that the suggestions of the Egyptian representative laid on the Governor the task of ensuring the return and reinstatement of refugees in their homes. If the Council adopted any such wording, he feared that the Governor would be given a task that he would be unable to carry out. For that reason, he had earlier proposed replacement of the words "and will receive" by "or will receive" in sub-paragraph (a) of the Egyptian suggestions, thinking that it was preferable to state that the refugees should either return to their homes or be compensated if they were unable to do so. He admitted that the sub-paragraph thus amended could be wrongly construed to give the impression that the Trusteeship Council was conferring on an unspecified authority an arbitrary power either to return refugees' property to them or to oblige them to accept compensation. That was why he preferred the wording submitted by the French representative, which would merely lay on the Governor the duty of facilitating the refugees' return and economic rehabilitation. It also took into account the existence of other bodies set up by the United Nations, and had the additional advantage of not laying upon the Governor the financial responsibility which he would incur if the Council were to adopt the Egyptian suggestions.

53. Mr. SHUKAIRY (Syria) asked that further consideration of the Egyptian suggestions be deferred until the next meeting to allow representatives enough time to study the text submitted by the French representative.

54. Abdel Monem MOSTAPHA Bey (Egypt) said that no one was denying the refugees the elementary right to return home. Opinions, however, differed on the suitability of expressing that right in words appropriate for insertion in the Statute. He thought that the right should certainly be stated in the Statute, as the matter was one of applying a principle recognized in the Universal Declaration of Human Rights.

55. Arab and other refugees had also the right to resume possession of their property, and the Governor should be obliged to ensure that they could do so.

56. In regard to compensation payable to refugees, he thought it would be sufficient to lay down the principle and to leave the Governor to determine the means by which the compensation could be paid. The authorities or persons responsible for damage should undoubtedly compensate those affected.

57. He had not, he said, had sufficient time to examine the French proposal and would reserve the right to refer to it later.

58. The PRESIDENT asked the Council whether it was prepared to hear a statement which did not bear

on the question being discussed but which Monsignor Tiran desired to make as he had to leave Geneva that day.

The Council accordingly deferred further consideration of the transitory provisions.

(b) STATEMENT BY THE REPRESENTATIVE OF THE ARMENIAN PATRIARCHATE OF JERUSALEM

At the invitation of the President, Monsignor Tiran, representative of the Armenian Patriarchate of Jerusalem, took a seat at the Council table.

59. Monsignor TIRAN (representative of the Armenian Patriarchate of Jerusalem) expressed his warm appreciation for the courtesy shown to him by the Council in having invited him on several occasions to present the views of his Patriarchate.

60. The Patriarchate was highly gratified and thankful to the Almighty that the Council had amended and completed a highly valuable and wisely drafted document which embodied the laws which would govern the administration of the Holy City when it was eventually internationalized.

61. Moreover, he had been glad to observe that from the outset the Council had given due consideration, among other things, to the existing rights of the various communities in Jerusalem, both in a general way and in particular with regard to Holy Places, religious buildings and sites. He believed that the judicious maintenance of existing rights in Jerusalem would make for the realization of the objectives of the General Assembly resolution of 9 December 1949 concerning the Holy City.

62. He wished, however, to make an observation on the term "existing rights" before a final vote was taken on article 36. That observation was submitted, not only on behalf of the Armenian Patriarchate, but also on behalf of the Greek Orthodox Patriarchate of Jerusalem, whose representative, Monsignor Germanos, had associated himself with the speaker in that respect.

63. The term "existing rights", as used in article 36 and elsewhere in the Statute, was, of course quite adequate, in so far as it referred to those rights and privileges which religious institutions and other institutions of a similar nature possessed and exercised in the Holy City in order that they might carry on their good work and pursue their several sacred or humanitarian aims without let or hindrance, in an atmosphere of freedom and with full opportunity for healthy enterprise.

64. The rights, however, relating to the Holy Places proper, in his view and that of Monsignor Germanos, required clearer definition, owing to their peculiar nature. The rights specifically relating to the principal Holy Places were too complicated. Their determination was more difficult, as their ownership was often multiple, overlapping and intricate. Consequently, the rights of the various communities concerned with regard to those principal Holy Places were liable to give rise to disputes, to claims and counter-claims, which at

times produced unpleasant and unbecoming incidents and a good deal of trouble, if they were not carefully determined and meticulously adjudicated.

65. The determination of the rights relating to the principal Holy Places therefore required more precise definition than the general phrase "existing rights". If a dispute arose between two communities and the person charged with the duty of adjudicating between them had no better legal guide to hand than the term "existing rights", he would, when he began to look for the existing rights of one or other of the parties to the dispute, be liable to ask, the rights existing when, for how long, on what basis, and to what extent. And it would be extremely difficult for him to render a just decision on the basis of the dubious answers to those questions.

66. For that reason, in order to supply relatively more precise answers to those questions, a legal guide had been made available, and had been in effective use for the past two hundred years, first during the Ottoman regime and later during the British mandate. That guide had not been, and was not, perfect. But in the circumstances it had been, and was, the best available.

67. He was referring to the orders set out in various *firmans* and known as the *status quo*. In 1757, a definite, and in certain respects new, disposition had been made by the Ottoman Sultan of that time of the rights of the various communities in relation to the principal Holy Places. That disposition had been maintained, and had gradually become established over a century. By 1852, it had already acquired relative stability and had, on the whole, been accepted by the communities concerned. Therefore, in that year and 1853, it had been reaffirmed in its final shape.

68. It was true that under the Ottoman regime, disputes over comparatively minor matters had been frequent between 1757 and 1852, and even later. But that had been largely due to the corruption of local Ottoman functionaries. During the thirty years of the British mandate, disputes had gradually become less and less frequent, due solely to the fact that the British administration had applied the *status quo* with the high sense of judicial impartiality and incorruptible integrity for which the British administration was justly renowned.

69. He and Monsignor Germanos therefore submitted that the adjudication of disputes would be greatly facilitated—they would even venture to say that disputes would be gradually eliminated—if in the Statute before the Council a paragraph were inserted in article 36 to the effect that with respect to the principal Holy Places the dispositions of the *status quo* of 1852 should be maintained.

70. It was true that the phrase "existing rights" would take in the rights under the *status quo*. But he submitted that a specific provision referring to the *status quo* in respect of the specific category of the principal Holy Places would not only clarify the issue, but would also, in particular, facilitate to a very

great extent the work of the Governor and the Supreme Court in connexion with disputes over rights relating to Holy Places, and hence, by the same token the work of the Trusteeship Council itself. In that way, major disputes would not arise, and minor disputes would gradually decline in number.

71. If the above considerations were deemed of any value, he and Monsignor Germanos earnestly hoped that the Council would take them into account.

72. Mr. FLETCHER-COOKE (United Kingdom), confirming Monsignor Tiran's contention that the British administration during the mandate had been guided in the adjudication of disputes by the terms of the *status quo*, referred the Council to his statement made at the sixty-fifth meeting (reproduced *in extenso* as document T/L.70), in which he had indicated that the settlement of religious disputes, which had presented one of the main problems in Jerusalem during the mandate, had been made particularly difficult by the fact that no code had existed, that records had been incomplete, and that the maintenance of the *status quo* depended upon which of the two international agreements entered into by the Ottoman Government was accepted.

73. He was not personally aware of any reference to the *status quo* in the terms of the mandate, but that was a point which the Secretariat could verify.

74. The PRESIDENT stated that article 36, to which Monsignor Tiran had referred, had already been provisionally accepted by the Council. The Council could, however, debate Monsignor Tiran's remarks during the third reading and decide whether to amend article 36 accordingly.

The meeting rose at 1.15 p.m.

272nd meeting

SEVENTIETH MEETING

*Held at the Palais des Nations, Geneva,
on Friday, 24 March 1950, at 3 p.m.*

Président : Mr. HENRÍQUEZ UREÑA
(Dominican Republic), *Vice-Président* ;
later : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, Dominican Republic, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

Observers from the following countries : Egypt, Israel, Hashemite Kingdom of the Jordan.

120. Examination of annual reports of the administration of Trust Territories (resumed from the 68th meeting)

CAMEROONS UNDER FRENCH ADMINISTRATION, 1948 :
REPORT OF THE DRAFTING COMMITTEE ON ANNUAL
REPORTS (T/L.68)

1. The PRESIDENT invited the Council to consider the report (T/L.68) of the Drafting Committee on

Annual Reports containing parts I and II of the section on the Cameroons under French administration, for inclusion in the Council's report to the General Assembly.

2. Mr. LAURENTIE (France) stated that the substance of part I was entirely satisfactory to his delegation and that he would merely reserve the right to make slight drafting amendments at a later stage.

3. The PRESIDENT (suggested that subject to the reservation made by the French representative the Council could adopt part I.

It was so agreed.

4. The PRESIDENT invited comments on part II.

General

5. The PRESIDENT suggested that the text of that sub-section be replaced by the following words: "The Council commends the Administering Authority on the sense of drive and energy apparent in the present development of the Territory and hopes that this development will be progressively continued".

The text suggested by the President was adopted.

6. The PRESIDENT invited the Council to examine the sub-sections relating to political advancement.

General

7. Mr. KHALIDY (Iraq) said that in the sub-section entitled "General" the main emphasis had been wrongly placed on respect for traditional indigenous institutions, whereas it should be placed instead on the progress and development of the Trust Territory. Although the French administration accorded due respect to traditional indigenous institutions, it attached greater importance to ensuring progress in the Territory. He suggested that the sub-section be amended to read: "The Council notes with approval the practice of the Administering Authority in regard to traditional indigenous institutions, which, although accorded due respect, are not permitted to hinder progress and development."

8. He had suggested the deletion of the words "progressive forms of government", because in his opinion all forms of progress and development in the Trust Territory should be given priority over traditional indigenous institutions.

9. Mr. AQUINO (Philippines) said that the sub-section related to political advancement and should therefore be confined to political matters. He hoped that the words "the development of more modern and progressive forms of government" would be retained.

10. Mr. KHALIDY (Iraq) said that he would agree to the retention of those words instead of the words "progress and development" which he had proposed. He attached much more importance to the other changes which he had proposed to the text.

11. Mr. GERIG (United States of America) said that the difference between the text advocated by the