

108. He wished to point out that he made every reservation with regard to the date of 6 April, which had been fixed somewhat hastily by the Council as the final date for the completion of its work. The second reading of the draft Statute for Jerusalem was progressing slowly, as the points arising required careful examination. Further, in its work on the annual reports on the administration of Trust Territories in West Africa, the Council was already behind schedule. Moreover, in view of the frequency of the meetings, members of the Council seemed to be finding it difficult to study the documents issued with the requisite thoroughness, and the debates were thus undoubtedly being slowed up.

109. Mr. KHALIDY (Iraq) felt that the Council would sooner or later have to consider the possibility of the *Ad Hoc* Committee on Petitions continuing to meet in Geneva after 6 April.

110. The PRESIDENT pointed out that if the *Ad Hoc* Committee on Petitions were to continue its work after the end of the Council's session there was no reason why it should do so in Geneva. In any case, no budgetary provision had been made to cover the Secretariat services which it would require. The Committee would therefore have to sit at Lake Success.

The meeting rose at 6.25 p.m.

249th meeting

FORTY-SEVENTH MEETING

*Held at the Palais des Nations, Geneva,
on Thursday, 9 March 1950, at 10.30 a.m.*

President : 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, Syria.

90. 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, T/L.35, T/L.36, T/L.37, T/L.38, T/L.39, T/L.42, T/L.43, T/L.46, T/L.49, T/L.50, T/L.51, T/L.52, T/L.53, T/L.54 and T/L.55) (resumed from the 45th meeting)

SECOND READING OF THE DRAFT STATUTE FOR JERUSALEM (T/118/Rev.2 and T/L.35) (*continued*)

Article 23 : Legislation and resolutions

1. The PRESIDENT pointed out that there was no equivalent in the English text of the words " par écrit " in paragraph 3 of the French text.

2. Mr. RYCKMANS (Belgium) having expressed the view that the words were pointless, the PRESIDENT suggested that they be deleted from the French text.

It was so agreed.

Article 24 : Legislation by order of the Governor

3. The PRESIDENT submitted that since the principle of suspending the Legislative Council had been agreed to, the proper step would be to revert to the original text of paragraph 1 and retain the words " or the Legislative Council is suspended ", the deletion of which had been suggested by the representatives of the Philippines, the Dominican Republic and China.

4. Mr. HENRÍQUEZ UREÑA (Dominican Republic) advocated the insertion of a limiting clause to prevent the Governor from promulgating orders which would in effect become permanent laws. He therefore proposed the inclusion in paragraph 1 of a provision to the effect that orders issued by the Governor at a time when the Legislative Council was not in session or was suspended required ratification by the Legislative Council, when re-convened, for them to continue to be law.

5. Mr. HOOD (Australia), proposing that paragraph 2 be deleted, said that it had been inserted in the draft Statute at a time when it had been thought that the composition of the Legislative Council would be such as to give rise to serious danger of deadlock in it. But if its final composition was that provisionally agreed on by the Trusteeship Council at the forty-fifth meeting, there would be little or no such danger.

6. Mr. HENRÍQUEZ UREÑA (Dominican Republic) referred to the fact that his own delegation and those of the Philippines and China had always favoured the deletion of paragraph 2. He was therefore prepared to agree to the Australian representative's proposal. If that proposal were adopted, paragraph 3 would also become pointless.

7. Mr. INGLÉS (Philippines) said that paragraph 1 was intended to be applicable when the Legislative Council was not in session, and paragraph 2 when it was. He himself considered that the whole article should be deleted. However, if the Council decided to delete paragraph 2, but to retain paragraph 1, it should adopt the amendment to the latter proposed by the representative of the Dominican Republic.

8. Mr. DE LEUSSE (France) contended that, whether or not paragraph 2 was deleted, it was necessary to retain paragraph 1. The Governor should, in fact, be able to legislate at all times when there was no Legislative Council.

9. Mr. SAYRE (United States of America) said that the Trusteeship Council should not ignore the directive in General Assembly resolution 181 (II), Plan of Partition with Economic Union, part III, section C, paragraph 5, which said : " The Statute shall . . . empower [the Governor] to promulgate temporary ordinances in case the Council fails to adopt in time a bill deemed essential to the normal functioning of the administration. "

10. Mr. RYCKMANS (Belgium) said he would support the amendment to paragraph 1 proposed by the representative of the Dominican Republic if paragraph 2 of the article were retained, but not otherwise. It was possible to visualize contingencies of several

kinds; for example, urgent but non-essential questions requiring legislation might arise while the Legislative Council was not sitting. The Governor would thereupon legislate by order on the sole ground that the matter was pressing. It would be the normal procedure, in such cases, for the measures adopted by the Governor to be submitted to the Legislative Council when it met. Where such cases were concerned, therefore, he agreed in principle with the amendment.

11. Again, the question might arise of essential laws, the right to promulgate which had to be granted to the Governor by the Trusteeship Council in virtue of the actual terms of General Assembly resolution 181(II). Paragraph 2 would empower the Governor, in that case, to give those laws effect should the Legislative Council refuse to ratify them.

12. Only if paragraph 2 were adopted could he agree to an obligation being placed on the Governor to submit orders to the Legislative Council.

13. The State of Israel and the Hashemite Kingdom of Jordan having thus far expressed their opposition to the internationalization of Jerusalem, it was necessary, he stressed, to anticipate a situation in which the Legislative Council would be unable to function and the Governor would accordingly be obliged to legislate by order.

14. Mr. INGLÉS (Philippines) agreed that the Council should not ignore General Assembly resolution 181 (II), but neither should it forget that in that resolution the General Assembly had laid down that the Governor should have the power to promulgate only temporary ordinances, whereas if paragraph 2 of article 24 were adopted the Governor would be given the power to promulgate permanent ordinances. The General Assembly had surely intended that temporary ordinances promulgated by the Governor should later be superseded by permanent laws and regulations. It had certainly not laid down, as the authors of article 24 had done, that the Governor should have the power to promulgate ordinances whenever and in whatever form he thought fit. Since the Trusteeship Council had provisionally agreed that the Governor should have the right to suspend the Legislative Council, there was no need for it to make provision in the Statute for legislation by his order. It should decide whether the Governor should have the right to legislate by order, or the more far-reaching right to suspend the Legislative Council; in no circumstances should he be granted both rights. If it decided to grant him the former, the provision should be worded in exactly the same way as the corresponding provision in General Assembly resolution 181 (II).

15. Mr. JAMALI (Iraq) agreed that the Governor would have too much power if he was granted both the rights just mentioned by the representative of the Philippines. He urged the Council to delete paragraph 2 of article 24, and to insert a provision similar to that in article 5 of the Declaration of Constitutional Principles annexed to the draft Trusteeship Agreement for Italian Somaliland, to the effect that the Governor of Jerusalem might legislate by order during an emergency, but

that he must later submit for approval by the Legislative Council orders so promulgated. Such a provision would be both more democratic and consistent with General Assembly resolution 181 (II).

16. Mr. RYCKMANS (Belgium) pointed out that the Iraqi representative had failed to make allowance for the contingency that the majority of the Legislative Council might refuse to co-operate with the Governor, and vote against all bills.

17. Mr. FLETCHER-COOKE (United Kingdom) said that the suggestion just made by the representative of Iraq was not practicable; the Territorial Council in the Trust Territory of Italian Somaliland would not be a legislative body capable of revoking legislation promulgated by the Administrator, and it would be absurd to lay down in the Statute for Jerusalem that the Governor might legislate by order, but that the Legislative Council might subsequently repeal every order he made. However, it would be desirable to add to the end of paragraph 1 of article 24 a sentence such as, "Any such law shall be laid before the Legislative Council, so as to permit debate and the airing of political opinions."

18. Mr. JAMALI (Iraq) said that he had of course intended that the provision to which he had referred in the draft Trusteeship Agreement for Italian Somaliland should be modified in the light of probable future conditions in Jerusalem and the fact that the Legislative Council in Jerusalem would have more power than the Territorial Council in Somaliland. He maintained that if there was a deadlock between the Governor and the Legislative Council, laws promulgated by order of the Governor should remain in force as such only until they had been revoked or approved by the Legislative Council.

19. Mr. RYCKMANS (Belgium) asked whether the representative of Iraq really believed that the Legislative Council's will should override that of the Governor, if it decided to vote against the adoption of every proposal laid before it.

20. Mr. DE LEUSSE (France) insisted that paragraph 1 must be retained unamended if the Council deleted paragraph 2. The situation in Jerusalem was not comparable to that in the Western countries, where, in case of dispute between the legislation and the executive, the latter had to give way. In Jerusalem, the executive power was represented by the Governor, who was not appointed by the legislature, but by the Trusteeship Council. Hence, a dispute between the legislative and the executive authorities in the City might well end in stalemate.

21. Mr. JAMALI (Iraq) said that it should be remembered that the Statute would not permit the Legislative Council to take any legislative or revocatory action not in accordance with the Statute, and that it was highly improbable that the Legislative Council would be completely opposed to the provisions of the Statute, as the representative of Belgium had suggested, since the Trusteeship Council had provisionally agreed that the composition of the Legislative Council should be

such as to ensure the three great monotheistic religions equal representation upon it. It might be laid down in the Statute that if a deadlock did develop between the Governor and the Legislative Council, the Trusteeship Council should decide how it should be resolved. The Governor should be principally concerned with administration, and not with legislation, which should be the prerogative of the Legislative Council.

22. Mr. INGLÉS (Philippines) said that the amendment proposed by the representative of the Dominican Republic would not give the Legislative Council any power of control over the Governor's actions, since in any event it would not be able to annul an order promulgated by the Governor unless he refrained in the case at issue from using his right of veto. It would, however, give the Legislative Council the right to debate action taken by the Governor, such as the promulgation of a law, and the Governor would then be free to follow or to ignore the Council's advice as to whether the law should be repealed or should remain in force.

23. Mr. RYCKMANS (Belgium) agreed with the Philippines representative that should the Legislative Council pass a law promulgated by repealing an order promulgated by the Governor, the latter could in fact veto it, and the order promulgated by him would accordingly remain in force.

24. There remained paragraph 2 of article 24, which in his view was essential if adequate safeguards were to be provided against the possibility of the Jews and Arabs, who would have two-thirds of the seats in the Legislative Council, paralysing legislative action by refusing to vote laws. The representatives of Israel and the Hashemite Kingdom of Jordan had both announced at the Council table their refusal to discuss the internationalization of Jerusalem. The deletion of paragraph 2 would make it possible for all legislative action, and hence the internationalization of Jerusalem, to be held up indefinitely.

25. The system proposed by the Iraqi representative, whereby the Trusteeship Council itself would in effect be called upon to vote the City's taxes and promulgate laws, was, he added, entirely out of the question.

26. Mr. HOOD (Australia) thought that the provisions of article 15 (Governor's emergency powers) would suffice to enable the Governor to deal adequately with such contingencies as those mentioned by the representative of Belgium, if they arose.

27. Mr. HENRÍQUEZ UREÑA (Dominican Republic) endorsed the remarks of the Australian representative, and also drew attention to article 23, which provided for intervention by the Trusteeship Council in the event of the Legislative Council's adopting laws and resolutions which conflicted with the Statute. In his view, articles 15 and 23 were sufficient, and there was no need to extend the Governor's powers. Paragraph 2 of article 24 should therefore be deleted. All that was necessary was to adopt paragraph 1, clarified by the amendment proposed by his delegation, since it was clear that the Legislative Council would always in

practice have the right of rescinding a law voted by or promulgated by the Governor. In the event of the Governor's refusing to promulgate an order rescinding a law, on the ground, for instance, that to do so would be contrary to the provisions of the Statute, the question would, under article 23, be referred to the Trusteeship Council. In view of the suspicion with which certain representatives clearly viewed the future activities of the Legislative Council, he wondered whether it might not be wise to provide for the City to be administered for a transitional period of several years by the Governor and such municipal authorities as might be set up in the constituencies.

28. Mr. LRU (China) stated that he still favoured the deletion of paragraph 2 and the adoption of the amendment to paragraph 1 proposed by the representative of the Dominican Republic. The Council had debated article 24 long enough. There were no grounds for the fears expressed by the representative of Belgium, since the provisions of article 22, as well as those of articles 15 and 23, were sufficient to remove any danger of a deadlock between the Governor and the Legislative Council preventing the effective functioning of the administration.

29. Mr. RYCKMANS (Belgium) submitted that the contingency envisaged in article 15—namely, disturbances which hampered the administration of the City—differed entirely from that envisaged in article 24. The former empowered the Governor to take action while the emergency persisted, but gave him no power whatever to act in the case of systematic sabotage of legislation on the part of the Legislative Council. It was the latter contingency for which the Trusteeship Council should make provision in article 24. The deletion of paragraph 2 would, in his view, place a powerful weapon in the hands of those who, without stirring up the slightest trouble, would be in a position to prevent the administration from functioning by, say, voting against all taxation proposals.

30. The PRESIDENT recalled that, when the Statute had first been drafted, its authors had had reasonable grounds to fear that the Legislative Council would seek to paralyse the administration completely. At that time it had been contemplated that the Legislative Council would be composed of Arabs and Jews in equal numbers, and there had been real danger of the Legislative Council's refusing to co-operate with the Governor. It was for that reason that the authors had provided all possible safeguards. The present situation was very different, and the new composition proposed for the Legislative Council afforded a guarantee against the danger which had been anticipated two years previously.

31. Mr. RYCKMANS (Belgium) pointed out that, as things stood at present, one-third of the members of the Legislative Council would be Moslems, one-third Jews and one-third Christians, and that three-quarters of the Jerusalem Christians were Arabs. In other words, 75 per cent of the members of the Legislative Council would, on the admission of the spokesmen of the Arabs and Jews before the Trusteeship Council,

be opposed to the internationalization of the City. They would be able to vitiate completely the work of the administration without recourse to disturbance or violence, simply by voting against all bills.

32. Mr. SAYRE (United States of America) said that, although the provisions of article 15 would enable the Governor to frustrate attempts by the Legislative Council to obstruct the City's administration in most cases, they might not suffice for that purpose when there was no emergency. It was to take care of that possibility, presumably, that article 24 had been included in the draft Statute. Provision should therefore be included in that article to enable the Governor to ensure the effective functioning of the City's administration outside times of emergency, both when the Legislative Council was in session and when it was not. Paragraph 1 of article 24 would be sufficient in the latter case. To cover the former case also, he proposed that the words "The Governor may promulgate temporary ordinances in case the Legislative Council is in session but fails to adopt in time a bill deemed essential to the normal functioning of the administration" be added at the end of paragraph 1. That sentence was identical with the terms of General Assembly resolution 181 (II) except for the words "is in session but". If his proposal were adopted, the Governor would be able to promulgate ordinances only of a temporary nature, which would have to be confirmed by the Legislative Council before they could become permanent.

33. Mr. DE LEUSSE (France) wondered whether situations such as that described by the Belgian representative were not in fact covered by article 15, which referred to "the non-co-operation or interference of persons or groups of persons in the City". In his view, refusal by the Legislative Council to vote laws would bring about "a period of emergency", thus allowing article 15 to be invoked. That interpretation derived more easily, perhaps, from the French text, which spoke of "période de crise", than from the English, which used the expression "period of emergency", which was certainly stronger than its French counterpart.

34. Mr. JAMALI (Iraq) said that the estimates given by the representative of Belgium were entirely without foundation. It was much more probable that three-quarters of the inhabitants of Jerusalem were in favour of the internationalization of the City, and even the Jewish inhabitants of the City were not one hundred per cent opposed to its internationalization. The views of the inhabitants of Jerusalem were not those of the two States whose forces were occupying parts of the City. The Council had no proof of the truth of the Belgian representative's assertion.

35. Mr. RYCKMANS (Belgium) asserted that it was the Council's duty to anticipate every possible contingency. To help make agreement possible, he would accept the United States representative's proposal.

36. Mr. HENRÍQUEZ UREÑA (Dominican Republic) suggested that the words "is in session but" be deleted from the text proposed by the United States representative, since it was not necessary to specify that the

text was intended to be applicable only when the Legislative Council was in session.

37. Mr. SAYRE (United States of America) said that he had proposed those words only in order to make it clear that that part of paragraph 1 would apply when the Legislative Council was in session, and the first part of the paragraph when the Council was not in session.

38. Mr. RYCKMANS (Belgium) suggested that if the order of the ideas was reversed, the representatives of the Dominican Republic and of the United States might be able to agree on the text. The United States representative's proposal should be placed at the beginning of the article, and be followed by the present paragraph 1.

39. Mr. JAMALI (Iraq) said that the General Assembly had instructed the Trusteeship Council to make the draft Statute more democratic; to give the Governor power to legislate by order even when the Legislative Council was in session would be utterly undemocratic.

40. Mr. LAKING (New Zealand) was prepared to agree to the deletion of paragraph 2 and to the adoption of paragraph 1 as amended by the representative of the Dominican Republic, since the circumstances in which the Working Committee which had drafted the Statute had intended paragraph 2 to be applicable were not likely to arise once a Legislative Council had come into existence, except in so violent a form that the provisions of articles 15, 22 and 23 would have to be invoked. He agreed with the opinion expressed by the United States representative in proposing his alternative text for paragraph 2, but, if that alternative text were adopted as submitted, certain obscurities would become apparent: who, for example, was to decide that the adoption of a given bill was essential to the normal functioning of the City's administration, or who was to decide whether the Legislative Council had failed to adopt it in good time? It would be unwise to create a situation in which an individual who might consider that his interests were adversely and improperly affected by the promulgation of a particular bill might be obliged to resort to the courts in order to determine whether the Governor had been within his rights in promulgating it.

41. Mr. RYCKMANS (Belgium) submitted that, to judge by the scrupulous regard always shown by the Iraqi representative for General Assembly resolutions, the United States representative's proposal should receive the unanimous support of the Council, since it repeated the exact terms of the General Assembly resolution of 29 November 1947. He personally would not object to it, though he would have preferred the original terms of paragraph 2, which were self-explanatory.

42. Mr. RAFAEL (Israel) said that, although he would not challenge the opinion of the representative of Iraq as to the views of the Arab inhabitants of Jerusalem, he could not let pass without protest his statement that not all the Jewish inhabitants were opposed to the internationalization of the City. The overwhelming majority of the Jewish inhabitants of Jerusalem

were opposed to the internationalization of the City on the lines laid down in the draft Statute. The Council might also consult the representative of the Hashemite Kingdom of the Jordan about the views of the Arab inhabitants of Jerusalem on internationalization, since he was clearly more qualified to know them than was the representative of Iraq.

43. Mr. INGLÉS (Philippines) thought that the Council should interpret part III, section C, paragraph 5 of the Plan of Partition annexed to General Assembly resolution 181 (II) in a reasonable manner. In his opinion, the General Assembly had meant by that paragraph that the Governor should have the power to legislate by order only when the Legislative Council had adjourned or had been dissolved—that was, when it was not in session. When it was in session, it should be permitted to take all the time it wished to discuss a bill before adopting or rejecting it, and the Governor should not have the right to require the Legislative Council to adopt the bill before a certain date and to promulgate the bill himself on that date if it failed to do so.

44. Mr. FLETCHER-COOKE (United Kingdom) said that if the Trusteeship Council took the action advocated by the representative of the Philippines, the implementation of the Statute would become impossible. The future Governor of the City had been described as a dictator, but it should not be forgotten that he would be appointed by the Trusteeship Council. It was surely out of the question that, after being appointed by the Trusteeship Council, he would follow a policy which would not accord with the will of the United Nations. It was quite unnecessary to insert provisions in the Statute merely for the purpose of preventing the Governor from taking action contrary to the will of the United Nations.

45. He could not agree with what the representative of France had said with regard to article 15, since no court of law of the kind with which he himself was familiar could agree that the Legislative Council had been guilty of non-co-operation sufficient to justify the Governor's making use of the powers defined in article 15, merely because it had voted consistently against all the bills submitted to it.

46. The text proposed by the United States representative was less democratic than the corresponding text in the draft Statute, since the latter laid down, in effect, that the Governor could promulgate only those bills which had been presented to the Legislative Council, and that, before doing so, he should take into account any amendments proposed; there were no such restrictions in the United States representative's text. For those reasons, and because the text of the draft Statute made it clear that the Governor himself should decide when the Legislative Council failed to adopt bills in due time or in the proper form, he preferred it to the United States representative's proposal.

47. The PRESIDENT thought the Council was now in a position to take a decision. In the case of paragraph 1, it had to decide whether to retain it as it stood, or whether it wished to adopt one or other of

the amendments proposed by the representatives of the Dominican Republic and the United States of America.

48. Mr. ALEKSANDER (Secretary to the Council) read out the amendment proposed by the representative of the Dominican Republic—namely, that the words "subject to ratification by the Legislative Council in order to continue to be in force" should be added at the end of paragraph 1.

49. Mr. RYCKMANS (Belgium) pointed out that if the text were so worded, the observations made by the Philippines representative no longer applied. The amendment proposed by the representative of the Dominican Republic meant that an order of the Governor would not continue to be law unless ratified by the Legislative Council; in other words, if the Legislative Council did not approve it, it became null and void, whereas according to the Philippines representative's interpretation, with which he fully agreed, the Legislative Council would have to pass a law rescinding an order of the Governor for it to become null and void, and moreover, the Governor would, if he deemed it necessary, have the right to veto any such law, and the order would remain in force.

50. Mr. HENRÍQUEZ UREÑA (Dominican Republic) thought the second solution preferable. He would alter his amendment to read: "Any order so promulgated shall become law unless abrogated by the Legislative Council at its next session."

51. The PRESIDENT suggested that, as the amendment proposed by the United States representative entailed the merging of paragraphs 1 and 2 into a single paragraph, it was the farthest removed from the original text, and should be voted on first.

52. Mr. LAKING (New Zealand) thought that if the Council decided to insert a provision along the lines proposed by the representative of the Dominican Republic, it should lay down that laws promulgated by order of the Governor should remain in force until revoked or amended by the Legislative Council.

53. Mr. INGLÉS (Philippines) said he was in favour of the amendment proposed by the representative of the Dominican Republic.

54. He considered that the phrase from General Assembly resolution 181 (II), which the United States representative had proposed should be inserted in article 24, was more, not less democratic than the present text of that article, since it gave the Governor power to promulgate only those bills which, in his opinion, the Legislative Council had not adopted "in time", whereas paragraph 2 of article 24, if adopted unamended, would empower the Governor to make law, in whatever form he thought fit, any bill not passed by the Legislative Council.

55. Mr. FLETCHER-COOKE (United Kingdom) proposed that, as an alternative to the amendment submitted by the representative of the Dominican Republic, the words "Such orders shall be laid before the Legislative Council as soon as may be practicable and shall remain law until and unless repealed by the

Legislative Council" should be inserted at the end of paragraph 1 of article 24.

56. He did not agree with the opinion just expressed by the representative of the Philippines, since the adoption of paragraph 2 of article 24 of the draft Statute would not give the Governor power to alter, before he made it law, the form of a bill presented to the Legislative Council.

57. Replying to the PRESIDENT, Mr. FLETCHER-COOKE affirmed that he was in favour of the retention of paragraph 2 of article 24 as it appeared in the draft Statute.

58. Mr. RYCKMANS (Belgium) thought a question of procedure had arisen. The United States representative had said that his (Mr. Sayre's) proposal was an amendment to paragraph 2. He, on the other hand, considered it to be a new proposal. He preferred the clearer wording of paragraph 2 of article 24 as it stood, but if that were not adopted, rather than leave a void, he would vote for the United States representative's proposal.

59. On the other hand, if the President were to put the United States representative's proposal concerning paragraph 2 to the vote before the original text, he would be obliged to vote against a wording taken from a General Assembly resolution, which was not all what he wanted. Furthermore, should that proposal be rejected, and the United Kingdom representative's proposal suffer the same fate, there would be nothing left. In his opinion the text of the draft Statute should be put to the vote first. If it were rejected, the United States representative's proposal should be voted on.

60. The PRESIDENT stated that that procedure could be followed provided that the text proposed by the United States representative were not considered as an amendment.

61. Mr. HOOD (Australia) suggested that the proposal that paragraph 2 of article 24 be deleted should be put to the vote first, as the proposal farthest removed from the original text.

62. The PRESIDENT said he did not wish to lay himself open to a charge of failing to observe the rules of procedure, but, if there were no objection, the Council would first vote on the original text of paragraph 2 and, if that were rejected, would vote on that proposed by the United States representative.

63. Mr. MUÑOZ (Argentina) suggested the insertion in paragraph 1 of article 24 of a provision to the effect that legislation by the Legislative Council repealing an order promulgated by the Governor should conform to the provisions of paragraph 3 of article 23.

64. Mr. FLETCHER-COOKE (United Kingdom), expressing agreement with the representative of Argentina, proposed that the words "in accordance with the provisions of paragraph 3 of article 23" should be added to the text he had already proposed for insertion at the end of paragraph 1.

65. Mr. LAKING (New Zealand) suggested that the paragraph should be worded so as to permit the Legislative Council to make amendments, with the force of law, to bills promulgated by order of the Governor.

66. Mr. FLETCHER-COOKE (United Kingdom) thought the New Zealand representative's suggestion a wise one, which could be accommodated by the insertion of the words "or amended" after the word "repealed" in the text which he (Mr. Fletcher-Cooke) had proposed.

67. Mr. JAMALI (Iraq) said that if article 24 were adopted in the form advocated by the United Kingdom representative, it would be possible for the Governor to make, and for the Legislative Council to revoke, the same order a number of times in succession. That was a procedure he would strongly deprecate. He considered that if the Legislative Council annulled a bill which the Governor had promulgated by order, the bill should forthwith cease to have the force of law.

68. Mr. MUÑOZ (Argentina) pointed out that the absurd situation envisaged by the Iraqi representative could never come about in practice, as the Governor would always enjoy the power to veto a decision by the Legislative Council to repeal a bill he had promulgated by order. Indeed, he (Mr. Muñoz) would be able to support the insertion in article 24 of the United Kingdom representative's amendment only on the clear understanding that the Governor would have that power.

69. Mr. FLETCHER-COOKE (United Kingdom), agreeing that his proposal maintained—and, he considered, rightly—the Governor's right of veto, pointed out that the Council was considering the case of a law made when there was no Legislative Council, or when the Legislative Council had been suspended. The Governor would probably have no opportunity of ascertaining the wishes of the people, but would be obliged to pass the law to ensure continuity of government. When the Legislative Council again met, the bill would be referred to it, and the Governor might then be made aware of all manner of objections to it. The Legislative Council might or might not convince the Governor, although he thought it likely that it would succeed in doing so if it wished the bill to be repealed. But the Governor must clearly be left with the responsibility for accepting or rejecting the arguments of the Legislative Council. And since the Governor was responsible for reporting to the Trusteeship Council whenever he used his power of veto, he thought it unlikely that any Governor would lightly veto the repeal of a law promulgated by his order, in view of the fact that he would have to defend such action before the Trusteeship Council.

70. Mr. JAMALI (Iraq) requested that that part of the United Kingdom representative's amendment reading "in accordance with the provisions of paragraph 3 of article 23" be put to the vote separately.

71. Mr. FLETCHER-COOKE (United Kingdom) said that the omission of the words "in accordance with the provisions of paragraph 3 of article 23" would make

little difference, since there was no provision in any article of the draft Statute for legislation by the Legislative Council except in accordance with the provisions of article 23.

72. The PRESIDENT then put to the vote the text of paragraph 1 of article 24 as it appeared in the draft Statute.

The text of paragraph 1 was provisionally accepted by a unanimous vote.

73. The PRESIDENT then put to the vote the United Kingdom representative's proposal that the words "Such order shall be laid before the Legislative Council as soon as may be practicable and shall remain law until and unless repealed or amended by the Legislative Council" should be inserted at the end of paragraph 1 of article 24.

The proposal was provisionally accepted by a unanimous vote.

74. The PRESIDENT then put to the vote the United Kingdom representative's proposal that the words "in accordance with the provisions of paragraph 3 of article 23" should be inserted at the end of the amendment which had just been provisionally accepted.

The proposal was provisionally accepted by 10 votes to 1.

75. The PRESIDENT then asked the Council to vote on whether paragraph 2 of article 24 of the draft Statute should be retained.

The Council provisionally decided, by 5 votes to 4, with 2 abstentions, to delete paragraph 2 from article 24.

76. The PRESIDENT stated that, since paragraph 2 was not to be included in the new draft of article 24, the Council should decide whether to adopt the United States representative's proposal to insert in paragraph 1 the words "The Governor may promulgate temporary ordinances in case the Legislative Council is in session but fails to adopt in time a bill deemed essential to the normal functioning of the administration."

77. Mr. INGLÉS (Philippines) said that, since the Council had provisionally agreed to give the Governor power to suspend the Legislative Council, it was no longer necessary to insert in the Statute the provision contained in the text proposed by the representative of the United States of America. However, he would agree to the insertion of that text, should the Council decide at the third reading to withhold from the Governor the right to suspend the Legislative Council.

78. Mr. RYCKMANS (Belgium) pointed out to the representative of the Philippines that the Council had just adopted unanimously a text permitting the Governor to govern by order at times when the Legislative Council was suspended. The reason why he was in favour of the United States representative's proposal, although it was less precise than the text just rejected by the Council, should, he felt, appear equally cogent to the Philippines representative. It would be stupid

of the Council to force the Governor, when he considered a law to be necessary, to suspend the Legislative Council in order to be able to promulgate that law himself. He wanted the Governor to be in a position to do what was necessary, without having first to suspend the Legislative Council.

79. Mr. INGLÉS (Philippines) hoped that in the end the Trusteeship Council would not give the Governor power to suspend the Legislative Council, since such power far exceeded that envisaged by the General Assembly. If he did not have that power, the passage from General Assembly resolution 181 (II), if inserted in article 24, would be sufficient to enable him to take all necessary steps to deal with cases to which paragraph 3 of article 22 had originally related and which were supposed to justify suspension of the Legislative Council.

80. Mr. FLETCHER-COOKE (United Kingdom) said that, although in agreement in principle with the proposal of the United States representative, he would abstain when it was put to the vote, since the words "promulgate temporary ordinances" had no precise meaning, and would probably give rise to unnecessary complications.

81. Mr. HENRÍQUEZ UREÑA (Dominican Republic) believed that the powers of the Governor were adequate, and would enable him to meet any crisis likely to arise. He was therefore unable to support the United States representative's proposal.

82. Mr. DE LEUSSE (France) said that he would vote for the United States representative's proposal, as he held that the word "temporary" would ensure the application of the same procedure as that on which the Council had just decided in the case of paragraph 1. The law would have to be submitted to the Legislative Council, which could then amend it for appeal in accordance with the provisions of paragraph 3 of article 23. If that interpretation were correct, he would vote as he had indicated.

83. The PRESIDENT put the United States representative's proposal to the vote.

The proposal was provisionally accepted by 5 votes to 3, with 3 abstentions.

Paragraph 3 was provisionally accepted by a unanimous vote.

Article 25 : Standing orders of the Legislative Council.

84. The PRESIDENT reminded the Council that the representatives of Belgium and the Philippines had suggested the deletion from paragraph 1 of the words "Provided that the Trusteeship Council may revoke any such order", and asked whether that suggestion could be provisionally accepted.

The suggestion was provisionally accepted.

85. The PRESIDENT remarked that no observations had been made on paragraphs 2, 3 and 4.

86. Mr. HENRÍQUEZ UREÑA (Dominican Republic) drew attention to the fact that in paragraph 2 it was

provided that the Chairman might or might not be a member of the Legislative Council. He would be interested to know why it was laid down that the Chairman might be chosen from outside the Legislative Council.

87. The PRESIDENT replied that the Working Committee which had drafted the Statute had agreed to the text in question on the assumption that the Legislative Council might possibly think it advisable to have as its Chairman someone who was not a member, but who had a great reputation in the City for impartiality.

88. Mr. HENRÍQUEZ UREÑA (Dominican Republic) remarked on the novelty of the provision, but thought that it might nevertheless constitute a useful experiment.

89. Mr. FLETCHER-COOKE (United Kingdom) pointed out that since the Trusteeship Council had decided to alter the composition of the Legislative Council, the words "not less than twenty-one members" in paragraph 6, and also the words "Twenty-one members" in paragraph 5, needed alteration. He suggested that they be replaced by the words "a majority of the members" and "A majority of the members" respectively.

It was so agreed.

90. The PRESIDENT recalled that the representatives of the Dominican Republic and of the Philippines had suggested that paragraph 5 be deleted.

91. Mr. HENRÍQUEZ UREÑA (Dominican Republic) said that he wished his suggestion to be considered as a formal proposal.

92. Mr. INGLÉS (Philippines) said that the second and third sentences of paragraph 5 were redundant, in view of the provisions of article 22 as it had been provisionally accepted. The first sentence of the paragraph should also be deleted, since, unlike article 22, it would give the Governor unqualified power both to suspend and to dissolve the Legislative Council. The text of the Belgian Constitution, on which article 22 had been partly based, made it clear that, in the former, the meaning of the word "adjourn" was the same as that of the word "suspend" in the draft Statute. If article 22 was finally adopted in the form in which it had been provisionally accepted, it would merely give the Governor power to suspend the Legislative Council subject to several limitations, and to dissolve it only if instructed to do so by the Trusteeship Council. The Legislative Council should enjoy the unqualified right to prorogue or adjourn its sessions at will.

93. Mr. DE LEUSSE (France) was also of the opinion that paragraph 5 was superfluous, as the Council had already provided in other articles that either the Governor or the Trusteeship Council had the right to prorogue, adjourn or dissolve the Legislative Council, and had also the right to prolong its sessions. The only question arising was that concerning the last sentence of the paragraph. Article 22 provided that the Trusteeship Council had the power to dissolve the

Legislative Council, but said nothing about the date of new elections.

94. Mr. RYCKMANS (Belgium) recalled that on a previous occasion, when he had not had paragraph 5 of article 25 before him, he had said that, if it was intended to reserve the right of dissolving the Legislative Council to the Trusteeship Council, dissolution should not be effected through the Governor. If it had been said that the Governor should dissolve the Legislative Council on instructions from the Trusteeship Council, it was because the power of dissolution had been expressly granted to him in all circumstances by paragraph 5 of article 25. If the Council deleted that paragraph, it would be more logical to make the last clause of paragraph 4 of article 22 read "it will order the dissolution of the Legislative Council".

95. After a brief discussion, the PRESIDENT suggested that the Council agree provisionally to amend paragraph 4 of article 22 by deleting the words: "instruct the Governor to".

It was so agreed.

The Council then agreed provisionally to delete paragraph 5 from article 25.

96. Mr. MUÑOZ (Argentina) proposed that the Council also delete paragraph 2, thereby leaving the Legislative Council entirely free to elect its own Chairman.

97. Mr. RYCKMANS (Belgium) agreed with the principle underlying the Argentine representative's proposal, but would prefer, instead of deleting paragraph 2, to add a passage to the effect that the Chairman could be chosen from inside or outside the Legislative Council, as, if that was not stated, some of its members might not clearly understand that they had the right to choose the Chairman from outside their own ranks.

98. There had been another reason, beyond the one given by the President, why the authors of the draft Statute had wished to allow the Legislative Council to choose an outside Chairman—namely, that in the case of an assembly in which all parties had equal representation a party might not like to see one of its members appointed Chairman, as it would thereby be deprived of a vote.

99. Mr. MUÑOZ (Argentina) suggested the insertion in paragraph 1, after the words "conduct of its business", of the words "including the election of a Chairman (who may or may not be a member of the Legislative Council)".

100. The PRESIDENT said that if the Council agreed to amend paragraph 1 in that manner paragraph 2 could indeed be deleted.

101. Mr. SAYRE (United States of America) doubted whether it would be advisable to delete the final provision of paragraph 2, since it was not impossible that the Legislative Council would find itself unable to elect a Chairman.

102. Mr. MUÑOZ (Argentina) said that if the Council was unable to reach agreement even on the election of

its Chairman, it would certainly not be able to do any work at all on more important matters.

103. Mr. LIU (China) said that he would prefer the provision referred to by the United States representative to be retained.

104. Mr. DE LEUSSE (France) considered that the reason why that provision had been inserted was that paragraph 2 provided that the Chairman must be elected by a two-thirds majority, which might be difficult to obtain. However, if the Council deleted paragraph 2, the Chairman would be elected by simple majority, under paragraph 8. A simple majority would present little difficulty.

105. Mr. SAYRE (United States of America), agreeing with the reasoning of the French representative, said that, although he would prefer the provision to be retained in the Statute, he would not press the Council to do so.

106. The PRESIDENT explained that the two-thirds majority for the election of the Chairman had been decided upon because as originally conceived the Legislative Council was to have been made up of equal numbers of Jews and Arabs. In view of the revised composition of the Legislative Council, there was no reason why election should not be by simple majority.

107. Mr. RYCKMANS (Belgium) expressed the opinion that provision should be made in the transitory provisions for the appointment of the first Chairman of the Legislative Council. Such appointment might be made by the Governor, in the event of the Legislative Council not having itself chosen its Chairman.

108. Subsequently, it would be for the Legislative Council to elect its own Chairman. And, as regards election he agreed with the arguments of the French representative.

109. Mr. MUÑOZ (Argentina) maintained that the whole of paragraph 2 should be deleted.

110. The PRESIDENT said that the Belgian representative's remark should be borne in mind when the time came for drawing up the transitory provisions. Paragraph 2 might be deleted on the understanding that the transitory provisions would provide for the appointment of the Chairman by the Governor, pending the election by the Legislative Council of a Chairman of its own choice.

111. After some further discussion, he suggested that the Council provisionally delete paragraph 2 from article 25 and adopt paragraph 1 amended by the insertion of the words "including the election of a chairman (who may or may not be a member of the Legislative Council)" after the word "business", as proposed by the Argentine representative.

It was so agreed.

91. Closing date of session

112. The PRESIDENT drew attention to the difficulties arising from the Council's decision at the forty-second

meeting to adopt 6 April as the closing date for the sixth session.

113. The Secretariat had stated that, in consequence of that decision, reinforcements would have to be brought from Lake Success. The services of sixteen more officials were needed if the Council was to hold two plenary meetings a day, in addition to meetings of the committees. He said that he would revert to the matter at the next meeting.

The meeting rose at 1.15 p.m.

250th meeting

FORTY-EIGHTH MEETING

*Held at the Palais des Nations, Geneva,
on Thursday, 9 March 1950, at 3 p.m.*

President : 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.

92. Closing date of session

1. The PRESIDENT requested the members to reconsider the question of the closing date of the sixth session, which, a few days previously, had been fixed for 6 April. In view of the technical difficulties involved, he thought the Council would hardly be able to dispose of all the items on its agenda by that date. In those circumstances, it would be necessary to defer some of them until the next session. As he had already pointed out, however, the agenda for the June session was particularly heavy, and it was generally desirable that it should not be prolonged beyond the end of July.

2. Moreover, the Council, after adopting the decision in question, had made very little progress either with the draft Statute for Jerusalem or with the examination of the annual report on the Cameroons under British administration.

3. If it was the desire of the members of the Council to hold two meetings a day until the end of the session, additional staff would have to be summoned urgently from Lake Success—a step which would entail considerable expense. Were the members of the Council prepared to incur that responsibility ?

4. Mr. Hoo (Assistant Secretary-General in charge of the Department of Trusteeship and Information from the Non-Self-Governing Territories) stated that he wished to make clear that the Secretariat was ready and prepared to give effect to any decisions the Council might make. Immediately after the Council had decided to complete its work by 6 April, and had requested him to make the necessary arrangements to enable it to do so, he had cabled to Lake Success for additional staff. Subsequently, however, in the course of informal conversations with a number of delegations, he had ascertained that while some believed that the