



Seventeenth Session

VERBATIM RECORD OF THE SIX HUNDRED AND SIXTY-SECOND MEETING

Held at Headquarters, New York,
on Friday, 17 February 1956, at 2.30 p.m.

President:

Mr. SEARS

(United States of America)

1. Examination of conditions in Togoland under French administration [3e, 4, 5] (continued)
2. Examination of petitions [4] (continued)

Note:

The Official Record of this meeting, i.e., the summary record, will appear in mimeographed form under the symbol T/SR.662. Delegations may submit corrections to the summary record for incorporation in the final version which will appear in a printed volume.

EXAMINATION OF CONDITIONS IN TOGOLAND UNDER FRENCH ADMINISTRATION (T/L.630)

(continued):

- (a) ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR 1954 (T/1202, 1202/Add.1, 1223 and 1232) [Agenda item 3 e]
- (b) PETITIONS CIRCULATED UNDER RULE 85, PARAGRAPH 2, OF THE RULES OF PROCEDURE OF THE TRUSTEESHIP COUNCIL (T/PET.7/L.10 to 13) [Agenda item 4]
- (c) REPORT OF THE UNITED NATIONS VISITING MISSION TO THE TRUST TERRITORIES OF TOGOLAND UNDER BRITISH ADMINISTRATION AND TOGOLAND UNDER FRENCH ADMINISTRATION, 1955 (T/1211 and 1228) [Agenda item 5]

At the invitation of the President, Mr. Touré, special representative for Togoland under French administration, took a place at the Trusteeship Council table.

Political advancement

Mr. GERIG (United States of America): We heard with the greatest interest the significant statement made yesterday by the representative of France that proposals for determining the aspirations of the people as to their future would be laid before the next session of the Council, or before a special session which might be called. It is therefore, of course, premature to pursue this matter further at this time. My delegation, however, would be interested in having some information on the following points:

First, are the people generally, both in the North and in the South, already aware that they will shortly be called upon to take such a far-reaching decision?

Secondly, are the developments in neighbouring British Togoland being followed and discussed by the people?

Thirdly, will the proposals which will shortly be laid before the Council be considered first by the Territorial Council or other representative organs?

Mr. MARGUES (France) (interpretation from French): I should point out in the first place that in a country such as Togoland there is really no general and informed public opinion. The under-developed mass of the population, especially in the rural areas, is actually unaware of the major political facts. But this mass is called upon to choose its representatives. Furthermore, there is an élite in Togoland, and that élite is increasing in size every day. It is certain that that élite is informed about and discusses the major political facts affecting the Territory's life.

I should add in this connexion that, although, as I have said, there is no general public opinion in the Territory, progress is being made very rapidly, and such a public opinion is beginning to emerge.

The population has not been officially informed that it will have to pronounce itself on the Territory's future, but this information is being received by ever-growing groups of inhabitants. It is a fact that the majority of the inhabitants of Togoland is aware that a turning point is about to be reached and that the population will be consulted on its future political life. The French Government, of course, could not make an official declaration in this respect to the population of Togoland before the United Nations had authorized it.

(Mr. Bargues, France)

This is my reply to the first part of the question. I might add that the population will not be at all surprised if the Government of France, in agreement with the United Nations, asks it to pronounce itself on the fate of its Territory. It will not be surprised because, as I have pointed out, the mass of the population, through its elite, is, after all, informed of the major facts of political life. Also, for several years now, the population has been called upon to participate in votes in which representatives were elected to different bodies either in the Territory itself or in metropolitan France.

I come now to the second part of the question, and I am basing my reply on what was observed in the Territory and what I have reported about the Territory to the Council, namely, that operations which will soon take place in Togoland under British Administration in which the population will be consulted on the fate of that Territory are little known to the mass of Togoland, especially in the north, where the population is still quite underdeveloped. If public opinion in Togoland under British Administration shows much interest in this, the fact remains that there is not much of an echo among the mass of the population of Togoland under French Administration, especially, as I have just said, in the northern regions.

Thirdly, it is certain that the Government of France could not make any decision on this until it had consulted the elected representatives of the population -- that is, in the first place, the parliamentarians who sit in the metropolitan parliament, and then the Assembly in Togoland. While it has not been possible yet to work out the details of the procedure for the consultation of the population, the French Government has nevertheless considered various phases of this procedure. A law will be required for this, for the French Government, under the constitution, would not be free to hold a popular consultation without being authorized by Parliament. And, above all, it could not permit the population to pronounce itself in favour of becoming a member of the French Union until elections had taken place.

The question would have to be studied and clarified, and it could be for the French Government, in agreement and in co-operation with the United Nations, to submit to the population of Togoland under French Administration the main facts and an outline of the solutions are open to the population.

(Mr. Bargues, France)

If we look at the matter specifically, we know that the population of Togoland under French Administration will have the choice between two solutions: either the independence of Togoland in isolation -- that is to say that Togoland under French Administration would become independent without being interdependent with a larger political entity -- or else it might remain without merging with Togoland under British Administration, if indeed it should express, through its voters, its desire for the solution which was proposed by the Territorial Assembly, namely, accession in some form to this great political entity which is represented by the French Union. It is certain that the Territory could not be incorporated in the French Union without Parliament's approving this solution.

The French Government, therefore, would have to be authorized by the French Parliament to ask the population of Togoland to take a position on its future fate, and this is mandatory because one of the solutions contemplated would be for Togoland under French Administration to become a permanent member of the French Union. The procedure then would be as follows. The French Government would study the question and would outline its basic elements. The matter would go before the Council of Ministers and then before the Conseil d'Etat under the Constitution. The legal view of that high body would be called for. Once a draft was prepared it would be submitted to the Territorial Assembly, and once these conditions had been fulfilled the French Government would be able to submit proposals to the United Nations. Only after decisions had been reached by the United Nations could there be any direct consultation of the population.

Mr. GERIG (United States of America): I should like especially to thank the representative of France for giving a fuller and more comprehensive reply even, I think, than my question called for in the first place, and I appreciate that very much. I think that there are aspects of this question which it would be premature to follow up now.

My second question pertains to the Territorial Assembly, and I should like to ask the special representative, who referred to this point in his remarks yesterday, for some information as to the extent of these expanded deliberative powers, as he defined it. It would interest my delegation as well as, I think, other delegations, if we could have some additional information regarding the nature of these new powers, especially those which go beyond the power to adopt the budget. I notice that there was some little discrepancy between the Visiting Mission's report and the statement of the special representative in regard to this matter and, in any case, our information is not complete on this particular point. I wonder if he would elaborate a little more on these new powers of the Territorial Assembly.

Mr. TOUROT (Special representative)(interpretation from French): In reply to the question of the representative of the United States, I shall take the liberty of recalling briefly the main powers granted to the Territorial Assembly. These new powers are the following. It deliberates all the proposals concerning local matters which are not subject to legislation; it discusses the implementation of laws and decrees in the Territory, especially in the economic, social and administrative fields, and also in the field of the administration of justice; it debates the programmes of equipping and developing economy; it discusses the granting of agricultural and forestry concessions and all permits for certain economic exploitations. All this is of local significance. It also determines the codification of customs and certain administrative matters. It gives its views on the adaptation of laws to the requirements of the Territory; it deals with budgetary expenditures, especially those regarding Government staff. Thus, the number of officials in the Territory who are paid out of the Territorial budget can be increased only with the approval of the Territorial Assembly at the time of a vote on the budget.

(Mr. Tourot, Special
representative)

The second part of the question concerns the recent session on the budget, and in this regard I may be able to give some clarification.

During the session of the Territorial Assembly last October, the Assembly had occasion to debate the texts concerning family taxes and family grants and allocations. It also chose its representative on one of the fiscal bodies of the Territory. It gave its approval of a loan for agricultural credits, as well as its approval of another loan for a different purpose. It discussed regulations concerning the import of industrial equipment.

(Mr. Tourot,
Special representative)

In the fiscal field, the Territorial Assembly discussed the discontinuance of certain taxes and it amended financial and taxation regulations. Finally, it also discussed, though without adopting any decision, the question of the deficit in the management of the railways. It also dealt with an increase in the number of local officials.

All this shows to what extent the Assembly took a hand in such matters during its recent session. It is obvious that the Territorial Assembly does not have all the deliberative powers of an entirely sovereign assembly, but at this time, as can be seen, it has rather extensive deliberative powers which give it unquestionable authority in the legislative field. It is active in an effective manner and influences the Administration in the development of the Territory.

Moreover, this applies to all general problems. It is not the letter, but the spirit which counts, and I would emphasize that in the framework of the existing legislation the maximum of freedom is given to the Territorial Assembly. I recall that the Visiting Mission came into contact with members of the Assembly and was present at a special session of this Assembly at Lomé. I believe that the Visiting Mission was in a position to realize how earnestly this body has worked and I think it appreciated rightly the implementation of these new institutions.

Mr. GERIG (United States of America): I was interested in a phrase which the special representative used just now, when he referred to these new powers being exercised as conferring extensive authority in the legislative field. I do not want to go back to the discussion which we had a year ago, a discussion which may have mainly resulted from a difference in usage in the French and English language. As I recall, we had quite a prolonged discussion as to what constitutes legislation and about what body can have legislative authority. In any case, even with this extended power, that body is still called a territorial assembly rather than a legislative assembly.

Mr. BARGUES (France)(interpretation from French): The question raised by the representative of the United States was referred to during a previous session of the Trusteeship Council. I must recognize that some confusion might arise in the minds of certain representatives, but this results from what is perhaps a defect in the French character which, in this and in many other matters, is a heritage of ancient Rome. That is, they attach much importance to legal precision. The representatives of Italy and of Belgium probably are sympathetic in this case because they have the same heritage. French law, which was inherited from Rome, has preserved this predilection for precision, and in French law there is a text which is called the loi, and the voting of that is the privilege of a parliament. That does not mean that texts which are not called laws -- arrêtés and délibérations -- do not have the same force as law, but they are not laws since they are not voted by a parliament. In fact, certain decisions are voted by the territorial assemblies of the territories for which France is responsible. Such assemblies are called territorial assemblies or representative assemblies of an overseas territory, but the délibérations voted by such assemblies very often have the same force as laws voted by parliaments.

I will take as an example the budget. The Territorial Assembly of Togoland votes the budget. That is a very important act because the budget largely determines the policy of the country. The budget is voted by the Territorial Assembly and then promulgated by the Governor. It may be asked what the Assembly can do when it disapproves of the action of the Governor. I think it has very effective means. It can refuse to vote the budget. That, of course, would upset the functioning of the administrative services. The executive power of the Metropolitan Power may enact a budget and that would make it possible for the administrative services to continue functioning, but the executive power does not have the right to vote a new budget; that right belongs exclusively to the Territorial Assembly. Therefore, the Territorial Assembly alone is in a position to vote a budget which, as I have said, is a necessary instrument for the conduct of policy and the implementation of policy. Therefore, it can be said that the Assembly really controls the policies of the executive power in the Territory.

In Metropolitan France, incidentally, the budget is voted by Parliament and, hence, it becomes a law. Similar budgets, but on the level of the territories, are not formulated in the form of laws, but they are called délibérations. It is a question simply of terminology. Our territorial assemblies are not called legislative assemblies because the legislative power is the monopoly of our Parliament. That simply means that acts which are legislative acts, which are laws, can be voted only by Parliament, whereas equivalent acts voted by territorial assemblies are not called laws. The only reason why these decisions are not called laws is that the territorial assemblies do not have what we call legislative power. Only the French Parliament has the power to vote what we call laws.

Mr. GERIG (United States of America): I just want to follow this up on one additional point. I take it that the French Parliament in Paris can extend and does extend some of its legislation to this Territory. Now in case of a conflict of laws between Lomé and Paris, I take it that undoubtedly the legislation in Paris would be in force.

Mr. BARGUES (France) (interpretation from French): Yes. I would like simply to add an observation to the question which was just put by the representative of the United States. Once the law voted by the French Parliament does not prevail over the délibérations of the Territorial Assembly and when it will be the délibérations of the Territorial Assembly which will have the force of law, from that day on the Territory will have acquired its independence, and this is the objective for which we are aiming.

Mr. GERIG (United States of America): We heard with interest the description of the newly-established Government and particularly the statement that this body should be viewed as the forerunner of a cabinet and that already it participates in a most effective and total manner in the administration of the Territory. I would like to ask, first, to what extent are the bureaux which assist these councillors staffed by indigenous personnel, and secondly, whether the various councillors, in practice, do enjoy a large degree of autonomy in their daily activities.

Mr. TOUROT (Special representative) (interpretation from French): In reply, I would say that while we are waiting for the material and the definitive installation of the Government Council, which was only recently established, a part of the administrative building has been set up for the councillors and there are quarters available to the councillors where they can work every day. There has also been made available to them a secretariat service, such as a secretary, a typist, a telephone operator, and so on. In co-operation with the service chiefs, they also have available the material assistance of the personnel of the service with which they are concerned.

With regard to the question of autonomy in their work, I can say that they attend regular conferences every week in the government house, at which there are brought together the territorial chiefs and the chiefs of service concerned. At those conferences which are attended by the councillors and in which they participate, they discuss and settle all service matters or technical matters concerning their various spheres. They are in frequent contact with the personnel and I must say that they have the greatest freedom to work in their given sector. As I have said, the spirit of co-operation which exists among all of them has provided all the necessary latitude for them to develop their work, especially as they gain more and more experience.

Furthermore, I should like to quote a sentence from a speech of the Governor of Togoland on the occasion of the inauguration of the budgetary session of the Assembly last year. This is the conclusion;

"I need not again emphasize the importance of the political evolution which has been noticed in Togoland during the past few years. This is a sort of pilot Territory."

Then he went on to say the following:

"From now on, it is your own Ministers who will develop the projects of the Government."

That shows the spirit, the intentions, of the Governor. The Governor has made his career in the Territory and he knows perfectly well what the situation is there, and he knows about the actual administration of the Territory.

Mr. GERIG (United States of America): I merely want to thank the representative of France and the special representative for their very full and adequate replies to my questions.

Mr. KAUL (India): At the fifteenth session of the Trusteeship Council, the representative of France had informed the Council that studies were being carried out on the question of the status of the inhabitants of French Togoland. The Council had expressed the hope that the Administering Authority would consider the possibility of establishing a Togolese citizenship. Will the special representative please state the progress made in this connexion.

Mr. BARGUES (France) (interpretation from French): I should like to inform the Council that the studies undertaken have not yet achieved concrete results. The problem is a complex one in fact. Its complexity has been stressed repeatedly in the course of preceding discussions in the Council. May I add that the problem not only relates to Togoland under French administration but to all Trust Territories. I am sorry that these studies have not yet been completed. They are very complex ones.

May I add, however, that for Togoland under French administration, they are less and less important. The legally precise determination of a nationality or citizenship of nationals of Trust Territories is of importance only to the extent to which these Territories remain under trusteeship. Inasmuch as we envisage for Togoland under French administration a fairly rapid termination of the trusteeship regime, the question will become moot fairly soon, and then the nationality of the Togolese will have to be settled on a completely new basis. The status of the inhabitants of the Territory is in close function to the status of the Territory itself. Since that status will be a new one, hardly any useful purpose will be served in attaching to these people now a status which they will soon have to forfeit anyway.

Mr. KAUL (India): My next question relates to the law-making process in French Togoland. The Visiting Mission had noted that no organ of the Territory played an effective part in making laws and had considered it appropriate if the inhabitants of the Territory could begin to participate in the law-making process. Will the special representative please state if any beginning has been made in this matter.

Mr. TOUROT (Special representative) (interpretation from French): This is what we referred to a while ago: the question of the expansion of the powers of the Assembly. Provision has recently been made for this. I wonder whether any specific details are what the representative of India is trying to elicit, and if so, what kind?

Mr. BARGUES (France)(interpretation from French): May I simply add that the progressive extension of the powers of the Territorial Assembly moves that Assembly toward the attainment of complete legislative powers without control by a superior authority. If such control still exists, it is precisely because the Territory is still a Trust Territory and because Trusteeship is exercised on behalf of the United Nations by the Administering Authority. Once it has been recognized that the Territory no longer needs to be under Trusteeship, then the Administering Authority will simply step aside and the plenitude of legislative power will be exercised by local organs of government.

Mr. KAUL (India): We realize the point which the representative of France has made, and we realize that the law-making powers at present rest with the French Parliament. But we seek a further clarification regarding all the spheres of activity in which the local inhabitants can play a part, in the decrees, etc. For instance, can they play any part in the penal legislation? Or can they have any voice in its amendment or alteration? We would like to have further clarification of the spheres in which the local inhabitants can play an active part.

Mr. BARGUES (France)(interpretation from French): Originally, when Togoland was under French Mandate under the League of Nations, legislative power was exercised exclusively by the French Parliament or through delegation by the French Parliament to the central executive institutions in Paris. As indicated a while ago, considerable evolution, especially since 1946, has occurred over these last few years. At the present time, it may be said that the legislative power is divided between the French Parliament and the local assemblies. This evolution is of such a nature that the part allocated to the French Parliament is shrinking, whereas the part assigned to the local assemblies is growing until the day will be reached, as was pointed out, when the part assigned to the French Parliament simply will disappear. The local assemblies will then have received all the power, which of course will be the end of that development.

Togoland is not a French Territory. Under the Trusteeship Agreement, which takes up in this sense the provisions of the Mandate of the League of Nations, the Territory of Togoland under Trusteeship is administered as if it were an integral part of Territories administered by the French Parliament, and,

in virtue of that fact, subject to legislation enacted by the French Parliament. The Constitution has reserved to the French Parliament exclusively certain spheres of legislation, for example, criminal legislation and legislation concerning civil liberties. Pending further evolution along the line which I have indicated -- and such evolution occurs continually -- penal or criminal legislation is still in the province of the Parliament.

Mr. KAUL (India): My next question relates to the powers of the chiefs. The Visiting Mission expressed itself in terms of a progressive transfer of some of the powers of the chiefs to democratically elected bodies, and had approved a plan proposed by the local administration. The Mission had also expressed the hope that the gradual establishment of modern communes governed by a democratic system would be effected in the near future. Will the special representative please state what progress has been made in the Territory?

Mr. TOUROT (Special representative) (interpretation from French): At the level of the administrative circonscriptions since 1951 the chiefs of circonscription have been assisted by circonscription councils elected in a two-degree ballot and charged with advising the chiefs of circonscription who, together with them or with this advice, exercised authority in the circonscriptions. More recently, these circonscription councils have had their powers extended. At its last session in October, the Territorial Assembly, acting on a motion from the Council of Government, bestowed moral personality upon these circonscriptions so as to enable them legally to act more effectively and more independently in the administration of their respective circonscriptions.

Mr. KAUL (India): Would the special representative kindly state what efforts have been made to intensify the training of qualified Africans for service in the Administration? In addition, what progress has been made in organizing a civil service for Togoland?

Mr. TOUROT (Special representative)(interpretation from French): The Administration has made great efforts along these lines. Of course, one cannot become an administrator or fill executive posts which require the assumption of responsibilities and certain qualifications from one day to the next or overnight. In order to train executive-type personnel, the Togoland Administration has appointed indigenous officials to responsible posts such as Assistant Chief of circonscription, Chief of Subdivision, Attaché to the Governor's Office and Police Commissioner -- so that even though there are not many, there are seven or eight indigenous officials who, for more than two years now, have filled responsible posts. I may add that they have coped with their duties extremely well.

In order to foster this policy of what we call Africanization of personnel -- I spoke about that yesterday during my preliminary statement -- a curriculum has been devised at the National School of Overseas France for indigenous inhabitants who are members of our African personnel. After two years of study, they may thus qualify for executive posts as administrators, in the Labour Inspectorate, etc. To permit accession to these posts, the age limit in that school has been raised by five years so as to enable indigenous inhabitants who have been delayed en route to be able to gain admission. The Togoland Administration, following the policy of the French Government, has endeavoured to the best of its ability to open wide the doors of the higher administration to qualified Africans.

Mr. KAUL (India): We appreciate the efforts made by the French administration to throw open the doors of administrative posts to the indigenous population, but all the same we would be grateful if the special representative would kindly indicate if it is the intention of the Administration to try and establish some sort of civil service for Togoland.

Mr. TOUROT (Special representative)(interpretation from French): We have the question of the Territorial cadres of personnel. This is under study in Paris. I think it will be adopted soon. That will greatly open up access to these posts for the Africans, and then we will have territorial administrative structures. That will be administered by the local authorities and arranged by them. They will take into account all the questions of salary, promotions, etc., and this will be governed by the local system in Togoland. The administration of this personnel structure and all of the personnel structure will be handled in Togoland.

Mr. BARGUES (France)(interpretation from French): The draft text mentioned by the special representative just now and also in his statement yesterday to the Trusteeship Council lists this bill as exactly along the line of thought stated by the representative of India. This is a legitimate anxiety indeed, the more so as until fairly recently the participation of indigenous inhabitants in executive posts was fairly low in Territories administered by France. The objective is to enable the local which will soon be assemblies elected by universal suffrage, to settle all the details of the administration of the territories they will run. Up until the recent past this was impossible to envisage, in view of the inadequate maturity of the population of the Territory and the manifest impossibility of recruiting administrative personnel from this population.

The bill recently drafted by the French Government will apply to Trust Territories and Territories belonging to the French Union alike. Since in this respect, as in many others, Trust Territories are administered like other French-administered territories, the objective will be to have each territory with its own administration. At the present time the bulk of the personnel

(Mr. BARGUES, France)

is furnished by the Metropolitan Territory; under the new system things will change. The local administration, the Territorial Assembly, will set the rules for the recruitment and operation of administrative personnel. Such personnel will essentially be recruited locally. It is likely that for some years the Territory will not have sufficient local resources to fill all the necessary posts, and persons from the outside will have to be called upon. But these persons from the outside will be recruited locally by the local authorities, and they will be subject to the same rules as local indigenous personnel. Once local resources have improved as educational conditions improve, it will surely be possible to recruit such personnel exclusively from indigenous inhabitants of the Territory.

Mr. KAUL (India): My next question relates to the extension of suffrage. We notice from the statement made yesterday by the representative of France that the National Assembly voted in November 1955 on a law which has not yet been adopted, but which provides for the total application of universal adult suffrage. We should like to know what legislative processes still remain to be completed and when it is likely that this new law would be applied to the Territory.

Mr. BARGUES (France)(interpretation from French): I shall sum up very succinctly the French legislative procedure. Bills are drafted by the Government, by the responsible Minister, a member of the Government, approved by the Council of Ministers and then submitted for its advice to the Assembly of the French Union, to the extent to which these laws are of concern to Territories other than Metropolitan France; then it is voted by the National Assembly, after discussion before the Conseil de la République.

The bill is therefore drafted by the Government. It obtains the agreement of the Assembly of the French Union; it is voted by the National Assembly. It is transmitted to the Conseil de la République, but at that point, incidentally, the session came to an end. Therefore, this particular bill will have to be voted on again. We are sure that it will be voted in

(Mr. Bargues, France)

exactly the same conditions as it was three months ago. Once it has been voted by the National Assembly, it will go before the Conseil de la République, and once adopted there it will be promulgated by the President of the Republic. Unless more urgent matters hold up the pace of the work of the National Assembly, it is very likely that this bill will go through within the next few weeks.

Concerning universal suffrage, I should like to make this comment. As I pointed out in my statement yesterday, great progress has been achieved in this field. Before the war there was no suffrage at all except in a very few fixed cases. When the Territorial Assembly was set up in 1946, the method was restricted balloting with restricted suffrage. There were about 6,000 voters if my memory is correct. At the last legislative elections there were 213,000 of them on 2 January. In this field, as in many others, we must proceed deliberately and progressively. It is really a two-fold problem. On the one hand it is the setting up of democratic institutions; on the other hand, to avoid clashing too drastically with century-old traditions. We feel it is our duty to harmonize traditional institutions with our desire to institute, as rapidly as possible, systems which would be comparable, in so far as possible, and identical to those in force in Western countries, especially France.

In this connexion, I might recall that the institution of universal suffrage in a democratic country like France is very recent.

(Mr. Bargues, France)

Universal suffrage was instituted in principle in France in 1848, just over one hundred years ago, which is not so long ago. However, in reality it was only partly universal. Women did not vote and some categories of men were likewise disfranchised, such as military personnel. It has only been very recently that universal adult suffrage has really been instituted in France. It has only been during the last few years that military personnel have been allowed to vote. There are some countries which are usually shining examples of democratic institutions in which women have no right to vote. In some countries there are religious obstacles to the institution of the right of women to vote.

In France the ballot is universal except, of course, that only adults can vote and except for a few categories, such as insane persons and prisoners or others who have been deprived of their political rights through legal processes.

This has been a century-old evolution which has only recently been completed in Western Europe. Some time will be required for this evolution to be gone through by African countries, which only a half century ago were in the midst of a feudal regime. We do expect to have universal suffrage in Togoland copied from the Western countries in general, and France in particular. If we succeed, it may be said that in less than a half century we shall have gone through an evolution which took the metropolitan countries, and especially France, centuries to go through.

Mr. KAUL (India): I wish to thank the representative of France for his very exhaustive explanation. My next question relates to the system of courts in French Togoland. The courts of first and second degree are generally presided over by administrative officials, whereas the customary courts are presided over by notable and traditional chiefs. The Visiting Mission had thought that this situation might be improved either by the unification of the judicial system or by a reorganization of the customary courts which would ensure their independence in relation to the Administration. Will the special representative please state the extent to which it has been found possible to implement this suggestion made by the Visiting Mission?

Mr. TOUROT (Special representative) (interpretation from French):

In Togoland at the present time in the circonscriptions there are tribunals of the first and second degree as well as customary tribunals. The customary tribunals are presided over by chiefs and paramount chiefs. In their areas they settle any litigation that may arise and are expected to engage in conciliation. As a matter of fact, conciliation is their primary function. Tribunals of the first and second degree administer civil justice exclusively. Criminal problems are dealt with by the Tribunal correctionnel at Lomé. The customary courts observe custom. They have operated to our great satisfaction and at the present stage we see no need to change this state of affairs. The system as it prevails can still perform useful services for some time.

Mr. KAUL (India): My final question relates to the number of advocates in French Togoland. By an order of 8 April 1955, the number of advocates in the Territory was limited to three. The advocates were nominated by the Commissioner. The Visiting Mission has recommended that the order should be modified so as to free the practice of the profession. Would the special representative please state whether the said order has been modified and whether the number of advocates has increased.

Mr. TOUROT (Special representative) (interpretation from French):

This measure had originally been adopted in order to prevent undesirable individuals from hanging out their shingle and abusing the more naive indigenous inhabitants. The measure is under review, and the permissible number of lawyers allowed to practice in the Territory will be increased as soon as certain obstacles are eliminated.

Mr. CLAEYS BOUUAERT (Belgium) (interpretation from French): A number of clarifications which I was going to request have already been given to the Council as a result of the questions which have been put by the representatives of the United States and India. However, I should like to call upon the special representative for certain details.

(Mr. Claeys Bouuaert, Belgium)

It is evident that the powers of the Territorial Assembly are of a legislative character. Of course, there is the right of veto of the High Commissioner and the High Commissioner may carry over the budget of the previous year. But the Territorial Assembly does vote upon the budget and does adopt certain legislative decisions, for example, the fixing of the rate of taxation. In the list of the powers exercised during the past year, there is the granting of permits for mining exploration. I suppose that this is within the framework of mining legislation. I wonder whether these permits are granted for the benefit of the Territory and whether the Territorial Assembly determines the length of time that those permits will be valid.

Mr. TOUROT (Special representative) (interpretation from French):

It is true that permits are granted only under certain conditions. This is a safeguard which has been instituted by the Territory. The conditions imposed are checked by the mining service. It is necessary to see that mining possibilities do exist in the Territory. We did not know about that before but we do know about it now. Even if the Territorial Assembly considers the matter in general, the mining service is charged with verifying whether the mining concessionnaires fulfill the conditions and obligations which are imposed on them. Absolute safeguards are provided vis-à-vis the Territory and the indigenous inhabitant, especially as regards the ownership of land.

Mr. CLAEYS BOUUAERT (Belgium) (interpretation from French): One further question of detail concerns the traditional chiefs -- the higher chiefs, the chiefs of canton and so forth. These traditional chiefs play a valuable role at the present time in the social and political life of the Territory. In the report of the Visiting Mission, I read that in the south especially the political parties naturally attempt to win over the traditional chiefs, and thus the traditional nature of the chieftdom is being lost, and so on. On the next page, the Visiting Mission says that the Administering Authority feels that in many regions the chief would simply be the traditional guardian of certain rights and customs. Now, the role of a political party chief, and so forth, may come to be identified with them. I would like to know the exact position of these chiefs in the present structure. At the present time, they have administrative and judicial functions or powers: they collect taxes, they keep registers of police, and they have conciliatory functions. Could the special representative comment upon the development of the fiscal judicial powers, especially in the south, in view of the evolution which has been noted in the role played by these traditional chiefs in the Territory?

Mr. TOUROT (Special representative) (interpretation from French): In Africa, custom and tradition are still strongly entrenched. The chiefs -- paramount chiefs and canton, village, and other chiefs -- are all, so to speak, an emanation of custom. They embody the customary institutions. If, as a result of an evolution of the present political situation and of the present social structure, chiefs tend to forfeit their traditional character and lose prestige in this respect, their influence nevertheless remains considerable.

At the present stage, the Administering Authority bases itself on them for the management of the administrative circonscription. That is where custom and the administration actually come together. They represent custom as against the administration, and they represent the administration as against the people. They are the hyphen, as we call it, between these two elements -- and they perform their functions as a hyphen very effectively, if I may say so.

Of course, political leaders may eventually become more and more influential, but this is not yet the case. The Administration finds it useful to use them in their present functions because they are surely an element of stability which is of benefit to the country as a whole.

Mr. CLAEYS BOUUAERT (Belgium) (interpretation from French): One final question concerning the membership of the customary tribunals, which, I am happy to learn, render great service: As to these customary tribunals which exist in all the divisions and sub-divisions, are their members chiefs or other indigenous inhabitants qualified to interpret the customs?

Mr. TOUHOT (Special representative) (interpretation from French): The customary tribunal is presided over by a chief named by the Administration. These chiefs are assisted by assessors, who are regional notables. This depends on the custom prevailing in the locality concerned.

Mr. ASHA (Syria): Before putting my questions to the representative of France and the special representative, I should like to try to clarify exactly where the Council stands as far as Togoland under French administration is concerned. A number of clarifications have been made since I prepared my questions and, if there is any overlapping, both the representative of France and the special representative may ignore my questions. I shall try to see that they are not repetitions.

The representative of France said yesterday that this year the Trusteeship Council has a special interest in this matter because of General Assembly resolution 944 (X), dealing with the general Togoland problem. Part II of that resolution deals exclusively with French Togoland, and it requests the Council, at its seventeenth session, to "undertake a special study of this matter" -- namely, the question of whether and under what conditions French Togoland will be ready to have popular consultations to determine its future. I understand that this matter of the special study will come before us later in the session. I hope that my understanding is correct; in any event, I see that it is inscribed on the agenda. But it seems to my delegation at this moment that the Council will have to study it -- whether the Territory is close enough to self-government or independence to call for a decisive plebiscite or other consultation, and what kind of self-government is in prospect for it if it wishes, as the representative of France stated yesterday as far as the Territorial Assembly is concerned, to stay within the French Union more or less on the present basis.

(Mr. Asha, Syria)

We are also aware that the representative of France explained yesterday that his Government was not yet ready to submit any proposals concerning these consultations but expects to do so either at the next session of the Council or, as he put it, at a special session which it might request. This is a most interesting statement, and we attach great importance to it. However, this does not eliminate the need which my delegation sees for a special study of the consultation question now. This is particularly the case because the representative of France told us yesterday that, in his Government's opinion, the objectives of trusteeship have very nearly been achieved in Togoland and that its future status can be decided without too much delay.

(Mr. Asha, Syria)

In our view, that means that the special study will have to be undertaken in any case, because the Council will have to advise the General Assembly whether it agrees that the trusteeship objectives are on the point of being achieved.

I hope that the Council will forgive me if I elaborate somewhat on this statement, because my questions will depend upon it.

My delegation feels a special responsibility in this matter because it had the honour of providing one of the members of the Visiting Mission, which has placed two reports before the Trusteeship Council: one a special report, and the other a regular report. We greatly regret the fact that Mr. Tarazi has had to leave New York before being able to take part in this discussion, but we have had explanations from him of the meaning and intentions of the Visiting Mission's reports; it is my delegation's desire to uphold those intentions.

I have felt it necessary to say this because I have been somewhat astonished at the reaction so far expressed to the Visiting Mission's report by the Administering Authority, both in its written observations and in the statements which its representatives made yesterday. I almost concluded that the report which the representative of France was talking about yesterday was an entirely different document from the report which my delegation has studied and wholeheartedly supports.

I now begin my questions. I feel bound to ask the representative of France if he would be good enough to make some further comment about his Government's attitude towards the main theme of the Mission's report. What my delegation understands from the Mission's report, taken together with the earlier, special report, is this: that while good progress has been made, with some important exceptions, in the economic and social fields, the Territory is lagging behind in political development. In fact, whereas the representative of France believes that Togoland is almost at the point of self-government or independence, the Visiting Mission implies just the opposite. The Mission takes the view in paragraph 120 of its special report (T/1206) that it is only after certain reforms have been undertaken that the Territory will be able to think about deciding its political future. In its regular report, which is summarized in the outline of conditions prepared by the Secretariat (T/L.630), the Mission explains more fully

what those reforms should be. In particular, it notes that:

"no organ of the Territory played an effective part in making laws, that the powers of the Territorial Assembly were limited to the making of rules and regulations and that the French Parliament remained sovereign in all matters." (T/L.630, para. 17)

In paragraph 28 of document T/L.630, we see that the Visiting Mission took due account of the provisions of the Law of 16 April 1955, on which the Administering Authority has been placing all the emphasis, but pointed out that these reforms should be supplemented by other measures if the Territory was to attain self-government and thus be in a position to emerge from its trusteeship status. The Mission went on to express the hope that the reforms introduced by the Law of 16 April 1955 would in the course of the next few years be followed up by other measures to make the Territorial Assembly into a legislative body with full budgetary powers elected by direct universal suffrage and to make the Government Council a true cabinet responsible to the Assembly.

Now, this is a little bit contradictory. The Administering Authority says that Togoland is near self-government: the Visiting Mission says that self-government is a few years away, and can come at that time only if the Territory is given its own legislature and cabinet -- things which it is obviously far from enjoying now. So far as I can see, however, the Administering Authority has not yet said a single word about this contradiction or about the exact proposals and recommendations of the Mission. I would therefore very much appreciate having some comments and clarification on these matters.

Mr. BARGUES (France)(interpretation from French): The representative of Syria notes that the Trusteeship Council has a special interest during the present session in the problems connected with the administration of French Togoland, because the General Assembly adopted at its tenth session a resolution on the subject, part II of which the representative of Syria read out -- the part concerning the future of Togoland under French administration.

In my opinion, that resolution does not justify any special interest because the Trusteeship Council, since it was established, has shown the greatest possible interest in Togoland under French administration, as in all the Trust Territories. The Council's interest is certainly very great; in fact, that interest has reached its greatest point, and I do not think that there are any special reasons why the Council should have a greater interest than usual in the present problem.

During the last session of the Trusteeship Council and during the tenth session of the General Assembly, the French delegation stated that its Government agreed in principle to the conclusions contained in the Visiting Mission's report. I use the words "agreed in principle", which mean that the French Government agreed that, in conformity with the United Nations Charter, it was appropriate to ascertain the wishes of the population on the Territory's political future. I understand that the French delegation's agreement, expressed in the name of the French Government, relates to the principle of the proposals in question and that there may be certain differences as to the methods suggested by the Visiting Mission. One of these methods has some importance; that is, the one concerning the date on which the population might be asked to decide on its future.

The Visiting Mission, referring incidentally to certain statements made by various persons on the scene, feels that, before the population is called upon to pronounce itself on the Territory's political future, certain new political institutions should be established -- which means that

(Mr. Bargues, France)

the population could be consulted only after a certain number of years had passed. On this point, the French Government is more optimistic than the Visiting Mission. The French Government believes that, in view of the Territory's development during the past years and of the progress which has been made by the population in all fields, and particularly in the political field, the population can be consulted on the Territory's political future some time in the very near future -- and not after several years have passed.

Before continuing with this point, I wish to make an observation. The representative of Syria attributes to the French Government intentions which it has never expressed. I would even say that the French Government has come to share the opinion that was expressed during the Assembly's tenth session by some petitioners from the Territory; namely, the opinion that the future status of Togoland, after the end of the trusteeship, remained to be determined but would not necessarily be the same as that which is in effect at present. Certainly, Togoland now has a political status, which, it must be stated, is copied somewhat after that of the territories which we call Overseas Territories and which are an integral part of the French Republic. When the population of Togoland is called upon to pronounce itself and to take a position, it will have to decide what ties should exist between France and the Territory once the trusteeship has come to an end, but it will also have to pronounce itself on the Territory's political structure.

(Mr. Bargues, France)

The population will be free to ask for independence for the Territory. In that case the question will inevitably arise. But it will also arise, in my view, if the Territory wishes to remain within the French Union, for the French Union includes, or may include, different categories of territories. At the present time Togoland under French Administration belongs to one of these categories which we call associate territories. It is not at all mandatory and perhaps not even desirable from certain points of view -- and this is a view which was expressed, I repeat, by certain petitioners who are actually members of the French Parliament -- that the Territory's future status should be the same as its status now.

The question may arise, of course, whether there should first be a further consultation to determine the ties between Togoland under French Administration and the French Union and the end of the Trusteeship system, and then to ask the population to give itself a new constitution which would determine the new political status and regime of the Territory, or whether it would be better to proceed the other way round, namely, to determine first the political structure and then decide whether an end should be put to the Trusteeship system and whether there should be accession to the French Union. I believe that logic demands that first of all, before the political administrative structure is fixed internally, it is necessary to decide whether Togoland under French Administration shall become an independent State, an isolated State, without any ties to other political entities, or whether, on the contrary, under its new regime it shall be linked to another political entity such as Togoland under British Administration or the French Union. This, at least, is the view of the French Government, which believes that in the first place the population should be consulted on the question whether it is desirable to put an end to the Trusteeship system, and whether, once that is done, Togoland under French Administration wishes or does not wish to belong to some other larger political entity, which could be the French Union for instance.

Then, once these points have been decided, the internal political structure and the administrative structure of the Territory will have to be determined. In fact, if I were to draw the final conclusions, one might say here that we should immediately proceed with the consultation of the population. However, the French Government asks for some time, and this request for time was explained

(Mr. Barges, France)

by me yesterday. The delay could be very brief. Perhaps it might be necessary to call a special session at which to fix the time limit. Why does the French Government not think it possible to have an immediate consultation? I have already explained why. First, because the previous legislature has come to an end and a new government is being formed. Because at first it is necessary to have some time to develop the procedure which will be followed in the consultation of the population. Then we already have political institutions which have recently been established. They are about to begin to function -- in satisfactory conditions, incidentally, as was pointed out by the special representative.

Finally, in view of the development of the procedure which has been followed in Togoland under British Administration it would be a good thing to wait to see this procedure being completed so that similar experiments might be carried out in Togoland under French Administration.

To sum up, we agree in principle with the Visiting Mission. We obviously agree with the resolution adopted by the General Assembly, for which, incidentally, the French delegation voted. We are convinced that it is necessary and desirable to have a direct consultation of the population of Togoland under French Administration. We believe that this consultation should take place as soon as possible. We even believe that it could take place immediately if there were not the certain minor obstacles which I have enumerated. These make it desirable to have a brief delay, after which the population will be consulted on its future political fate.

This consultation should precede the establishment of an administrative and internal political structure, which must depend on the decision which will be taken by the population with regard to the external relationships of the Territory with other political entities of wider scope. For the internal structure will vary depending upon whether Togoland under French Administration becomes an independent isolated State or an autonomous State within a large political entity, which might be the French Union.

Mr. ASHA (Syria): I am very grateful indeed to the representative of France, but if I understood him correctly today when he was replying to a question put to him by the representative of the United States with regard to popular consultation he said that there was no public opinion in Togoland but merely the

(Mr. Asha, Syria)

opinion of the elite. I am not sure whether he said that there was no public opinion, as such, in Togoland, but only the opinion of some representatives of what he called "the elite". Could he please clarify this?

Mr. BARGUES (France) (interpretation from French): I said that unquestionably, in a country such as Togoland under French Administration, and generally speaking in Black Africa, there is no general public opinion representing all the regions. This may not be entirely true for the southern parts of Togoland, perhaps, but is certainly true for northern Togoland. Nevertheless, it is true also that this population may be effectively consulted on the fate of its Territory. I did not say this on my own initiative. I said it when I was asked a specific question by the representative of the United States.

If I remember correctly -- and I should like to be corrected if I am wrong -- the representative of the United States had asked me whether, generally speaking, the population both in the north and south was already informed that it might soon be consulted and called upon to state its position on the future fate of the Territory. In reply to that question I said that the population was not yet generally informed. There are certain advanced circles -- more of them in the south than in the north -- which are informed, but the population of the north, generally speaking, is not informed because public opinion there is not yet as developed as it is in the western countries. The people do not have radio receivers, and there is no widely circulating press. On the other hand, the French Government was not free to make known its intentions to the population, and it would have been discourteous of it to have done so before it had the approval of the United Nations General Assembly.

Nevertheless, even if public opinion has not been informed, it is true that the population is sufficiently advanced to take a position once it has been consulted. I think that the population of Togoland under French Administration is in about the same position as the population of Togoland under British Administration. Our population was administered, first, by Germany and, for forty years, by France. They will understand perfectly well when they are asked whether they wish to have the present French administration under the supervision of the United Nations. The problem is very simple; they will understand it. Even the rudimentary public opinion which we have now will understand. I have said that public opinion was not yet informed that this consultation was impending, but I did not say that the population would not be in a position to pronounce itself once it had been informed of this consultation.

Mr. ASHA (Syria): I have another question with respect to the statement made earlier by the representative of France. I should like to ask how there can be consultation without universal suffrage. Certainly the results will not reflect truly popular opinion. Can the representative of France clarify this point?

Mr. BARGUES (France)(interpretation from French): It should be understood -- and I believe that the United Nations does not interpret it in any other way -- that the consultation will apply the principle of universal suffrage. It will be a direct consultation. I am referring to paragraph 1 of resolution 944^(X), part II, to the effect that the wishes of the inhabitants as to their future will be ascertained by direct and democratic methods. This is quite clear and precise and can mean nothing but a consultation under universal suffrage. In replying to a question by the representative of India, I said that probably the law on universal suffrage would be voted very soon -- perhaps within a few weeks. Of course, it will be necessary to establish the voters' lists, but there, again, we have a similar situation to that which prevails in British Togoland, where electoral rolls have not yet been completed but are being prepared. This also will take several weeks.

Mr. ASHA (Syria): I am indeed grateful to the representative of France for his clarification. I wish to assure him, before I come to my next question, that there is nothing critical in my questions. I am not criticizing the Administering Authority at all. All I am asking for is clarification. If I wish to offer any observations or comments, I shall do so later in my statement.

In paragraph 17 of the Outline of Conditions...

Mr. BARGUES (France)(interpretation from French): I wish to assure the representative of Syria that I see no critical implications in his questions. As a matter of fact, I endeavoured to reply as extensively as I could. I simply said that the French Government, taking account, of course, of local considerations, of the evolution of the Territory, etc., felt that the population had reached a degree of maturity which made it possible for it to pronounce itself on the question of its future political fate. I believe that the United Nations will agree with the Administering Authority's view.

Mr. ASHA (Syria): I thank the representative of France for having understood me correctly. According to paragraph 17 of the working paper prepared by the Secretariat (T/L.630), the Mission pointed out that there was no provision of the French Constitution which stood in the way of granting full legislative powers for the Trust Territory since article 72 of that Constitution, which defines the powers of Parliament, applied only to the French Overseas Territories; and the Trust Territory is not a French overseas territory, even under the Constitution, although it is described as an associated territory. Does the Administering Authority differ from this view?

Mr. BARGUES (France)(interpretation from French): I agree with this statement. The Constitution reserves for Parliament certain subjects -- I quoted from the Constitution a moment ago in replying to a question by the representative of India -- such as penal legislation, exercise of civil liberties, etc. Otherwise, legislative power may be delegated to local assemblies, and that is what has been done. As already pointed out, the powers given to the Assembly have the character of legislative powers. We simply do not call them legislative powers, for reasons

which I have explained. They are essentially reasons of legal terminology. If the French Parliament felt that it should not grant immediately and fully all legislative powers to the Assembly, it was because it was inspired by the principles which I recalled yesterday in my statement. It felt that it would be preferable to proceed progressively. Power is now extensive. It may be that only a last phase is to be covered between what has already been established and what will be reached when the Trusteeship System no longer applies to the Territory. If the Territorial Assembly had all the legislative powers, then, by definition, trusteeship would no longer prevail. If it is felt that trusteeship must be maintained, it is inevitable that the Administering Authority would reserve certain powers for itself, which is the essence of trusteeship. Once the power of decision is fully transferred to the population, then trusteeship no longer exists.

Mr. ASHA (Syria): A moment ago the representative of France said that weeks might be needed for the preparation of the electoral lists. For the sake of argument, let us suppose that universal suffrage will be enacted within six weeks, or perhaps three months, from now. How soon, then, would Togoland be able to apply it in practice, either for parliamentary elections or for elections to the Territorial Assembly? In other words, when are the next elections for these main bodies due to be held?

Mr. BARGUES (France)(interpretation from French): I regret that I cannot make a precise reply to this question. This is up to the Parliament. The Assembly is now in office; it was elected rather recently, and the terms of office of its members were fixed for a certain period. Changes may be made, and that is what happened for the Territorial Assembly after the vote on the law of April 1955. The Mandate of the Assembly had not completed its term, but, a new law having been passed, it was judged advisable to dissolve the Assembly and to proceed to new elections. It may be that when the law on universal suffrage is voted upon, the French Parliament will see fit, since the electoral college will have changed, to hold new elections on the basis of this new electoral regime. But I do not wish to predict what will be decided by Parliament.

Mr. ASHA (Syria): I should be grateful if the representative of France could give me an explanation of the following. Certain political parties, one in the south and the other, I think, in the north which is composed of northern chiefs, had no opposition either at the Territorial Assembly elections last year or the parliamentary elections this year. Is the one-party system being developed in Togoland, or is there another reason?

Mr. BARGUES (France) (interpretation from French): It would be paradoxical to blame France for anything like a one-party system. The reverse reproach is usually levelled at France and, I suppose, France partly deserves that. If in the Togoland elections only two parties presented candidates, that was perhaps because the other parties did not consider it advisable to present any candidates. They probably thought that their success would be rather less than striking, and hence they found it inadvisable to present candidates.

Mr. ASHA (Syria): I can assure the representative of France that I was not blaming France for the one-party system. I merely asked a question, but I will not pursue it any further. May I now address a question to the special representative? Could he give us some details about the parliamentary elections? Could he tell us how many candidates there were, how the votes were cast, and how the votes were divided between the northern and southern parts of the Territory?

Mr. TOUROT (Special representative) (interpretation from French): At the parliamentary elections which took place on 2 January, all necessary freedom was given to the entire population. Anyone could be a candidate. There were no restrictions. It so happened there was only one candidate, and it must be recognized that he was elected by a rather large number of voters, and this indicates his standing in the Territory. I believe that sometimes, especially from a distance, one may give different interpretations to such a single candidacy, but I am in a position to say that the other candidates who might have run did not do so deliberately because they knew, and rightly, that if they did they would meet with failure. Usually a candidate, when he knows that he will fail automatically, prefers not to run, for personal reasons. Then, there were certain

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political parties which wanted to give a false impression of the political situation in the Territory. Those, in a few words, are the comments I can make on this question.

Mr. BARGUES (France) (interpretation from French): If the party situation in Togoland is somewhat the reverse of that in France, this is due to the fact that grouping takes place when there are clear-cut issues. The determining factors are simple and clear-cut issues, and when opinion is divided, then there are a great number of candidates. If two groups or parties divide public opinion, as is the case in Togoland, where there is the party of the chiefs in the north, and if one party does not wish to put forward any candidates, that is because opinion is crystallized around simple ideas. For instance, there may be the question of whether Togoland at the end of the Trusteeship System should join the French Union or, on the other hand, whether it should merge with a neighbouring Territory. The parties which were victorious in the elections were parties which are in favour of evolution with the French Union. The other parties are not in favour of this. When the day arrives when Togoland is concerned with a greater number of questions, I am sure that at that time the inhabitants, especially those who were trained in France, will form a greater number of parties and there will be real electoral battles.

Mr. ASHA (Syria): I should like to ask either the representative of France or the special representative whether a civil servant can be elected to the Territorial Assembly or to the new Government Council without having to give up his governmental job.

Mr. TOUROT (Special representative) (interpretation from French): I believe that there are no obstacles to prevent an official being a candidate. He would simply be placed on special leave of absence during his term in the Assembly.

Mr. BARGUES (France) (interpretation from French): If I did not reply to the representative of Syria it was because I did not know exactly what the administrative status of the official would be once he was elected. But I am quite sure there are no restrictions. French law provides for special leave

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of absence for officials who are members of parliament. I did not know what the regulations are in respect of members of territorial assemblies.

Mr. ASHA (Syria): I am not certain that I correctly understand the answers to my question. My question was: Can a civil servant be elected and retain his government job? The answer was that he would take leave of absence; in other words, he could not retain his government job. Is that correct?

Mr. BARGUES (France) (interpretation from French): Yes. He does not lose his position; he is given leave of absence and at the end of his term as representative he resumes his office. An official cannot continue his official duties and at the same time fill the position of elected representative. While he is acting as representative, he is not in office, but he resumes his office once his term has expired.

Mr. ASHA (Syria): Now I understand that if a civil servant is elected he takes leave of absence from his government job. Could the special representative tell us for how long he is allowed to be on leave and act as an elected representative?

Mr. BARGUES (France)(interpretation from French): Throughout his legal term of office.

Mr. TOUROT (Special representative)(interpretation from French): Lest there be any misinterpretation, I should like to make it clear that if we are speaking of elections to the Legislative Assembly, that is so, but if we are speaking of elections to the Territorial Assembly, elected officials retain their administrative posts throughout the duration of their term of office.

Mr. ASHA (Syria): My question was in connexion with a person elected to the Territorial Assembly. But I understand it now. In other words, a person elected to the Territorial Assembly can retain his government position for the duration of his term of office. That is very clear. I would now like to ask the following question: Is it advisable to pursue such a policy and does it not have its inherent dangers?

Mr. BARGUES (France)(interpretation from French): To the extent to which assemblies have no extensive political powers, this raises no difficulty. As the political powers of the Territorial Assemblies are extended, the same rule would have to be applied as applies to the French Parliament. I did not quite understand previously the question of the representative of Syria. I had in mind only the French Parliament. There would be criticism if a high official retained his job while serving in the Assembly, because after all there might be improper influence of one position on the other. With regard to the Territorial Assemblies, this obstacle did not arise, but in the near future it may be necessary to enact similar kind of provisions. In that case, of course, there would have to be a compensation for members of the Assembly. There has not been any such compensation so far. Members of the French Parliament are, of course, paid.

Mr. ASHA (Syria): That is exactly what I was driving at. When I asked the question, I had in mind the day when the Territorial Assembly will have more powers, as has been expressed by the representative of France.

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Now I understand that some kind of arrangement must be made if the Assembly will have more powers in the future, and that the members of the Territorial Assembly would have to receive compensation. I am quite satisfied with the reply.

For my last question on political advancement, I would like to invite the special representative, if he would be good enough, to comment on the serious questions of political freedom which were raised by the Visiting Mission and which appear in paragraphs 63 to 71 in the outline of conditions (T/L.650) and on which I could find no reference in the observations of the Administering Authority (T/1228).

Mr. TOUROT (Special representative)(interpretation from French): May I ask the representative of Syria to tell me precisely on what point he would like me to comment?

Mr. ASHA (Syria): The Visiting Mission, in its report (T/1211) stated that the political freedoms were not as they should be. In the observations of the Administering Authority there were no remarks on that particular point. Could the special representative enlighten us.

Mr. TOUROT (Special representative)(interpretation from French): I must say that I have been very well informed on these matters. I accompanied the Visiting Mission throughout most of its journey in the Territory. To my knowledge there has been no obstacle placed in the way of the exercise of political freedoms, nor has there been an attempt to hamper anyone. There may have been some difficulties between the various local political parties, each of which sought to exert some influence and assert itself, but as a whole it cannot be argued that any difficulty was raised. If there is any particular point which the representative of Syria wishes me to bring out, I shall do so with pleasure. But in general there have surely been no such instances that I can think of.

Mr. BARGUES (France)(interpretation from French): In raising his question, the representative of Syria cited paragraph 71 of the working paper prepared by the Secretariat. The document is well drafted, but of course it is a summary; it is a survey of the contents of the report of the Visiting Mission. I have read in detail, and very carefully, the paragraphs which the Visiting Mission in its two reports -- the special report and the regular report -- devoted to the exercise of public and civil liberties in French-administered Togoland.

Here is how the Mission envisaged the problem: the Visiting Mission received complaints from the representatives of certain political parties who charged the Administration with failing satisfactorily to secure the observance of political freedoms. They accused the Administration of taking measures designed to encourage the majority parties which wished to retain Togoland within the French Union, and they said that the Administration also sought to hamper the activities of other parties. The Visiting Mission hastened to add, however, that the complaints thus presented were not supported by any probative evidence.

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The members of the Visiting Mission say: "We cannot arrive at final conclusions or make a final judgement on these complaints since they are not supported by evidence of a probative nature. However, we have noted some minor facts which have given us some vague impression that not everything that was said to us by the petitioners is wrong or untrue." The Visiting Mission stresses that this is merely the impression gathered by some of its members. But the Mission thought that it was its duty to draw this impression to the Council's attention.

What is it that gave this impression to the members of the Mission? When they arrived at Lomé, they found along the road and in the streets of the town large numbers of representatives of the forces of public order. I must speak now as an old Overseas Territory official. The young Governor, whose merit is unquestioned -- and the Visiting Mission paid tribute to it -- but who, by virtue of his youth and since he has been Governor for only a fairly short time, may lack a certain self-confidence, a sureness of touch, was confronted with the arrival of the Visiting Mission sent there by the United Nations. You know how great the prestige of this Organization is among the people of Overseas Territories and among the officials there. This young but important executive was impressed by the arrival in his Territory of four important personalities who were, so to say, the envoys of this international Organization. At the same time he was aware of the procedures which were employed occasionally by opposition parties. In the past, these parties always tried to press their complaints and demands by methods which resulted in disturbances of public order. I do not wish merely to blame these parties, but I must mention the occasionally excessive intransigence of the representatives of the majority parties also.

I have said that the African population had achieved sufficient maturity to pass judgement on the future of the Territory. This maturity, however, may not be sufficient to support with calm and quiet all the tribulations of political contests. It is hot in Africa, and political rivalries have sometimes given rise to hot incidents. Africa, may I say, does not enjoy a monopoly of this feature of political activity. You may imagine what

(Mr. Bargues, France)

consequences this may have had on the career of the young Governor if incidents had occurred right in the middle of the visit of the Visiting Mission, if the members of the Visiting Mission had not been welcomed there in an atmosphere of calm and dignity commensurate with the importance of their personalities and mission? What would have happened, the Governor thought, if incidents had occurred, if disturbances or riots had occurred between partisans of the various political groups? He adopted the method of the young official who was not very experienced. He called upon large police forces.

Lyautey said. "You have to show a strong hand in order not to be forced to use it." As it was, nothing happened. Perhaps nothing happened just because there were many policemen around. I am not sure that this is so, but it is conceivable.

The members of the Visiting Mission made some comments on that to the Commissioner of the Republic, who realized that the point was well taken. When the Visiting Mission came back to Lomé the second time, the police forces had disappeared. The young official to whom I am referring is an efficient and able official. The police forces on the second occasion remained within call, so he could have called upon them if necessary.

These incidents have to be reduced to the modest proportions which apply to them. I am sure that my interpretation is not remote from the interpretation of the members of the Visiting Mission who spoke of impressions. They had such and such impressions, stimulated perhaps by members of parties that had asked for audiences. They may have thought that the police deployment was excessive. One cannot deduce from this -- and the Visiting Mission does not -- that the exercise of political freedoms is not secure in Togoland.

Mr. ASHA (Syria): I did not say that political freedom is not secure in Togoland. That is something to which I have never referred. I was referring to the question that reference was not made in the observations of the Administering Authority to the observations of the Visiting Mission.

I wish to raise one final point in order to explain why I asked this question. In the outline of conditions in Togoland under French Administration,

(Mr. Asha, Syria)

we read the following:

"With regard to the oppressive measures to which supporters of the C.U.T. and JUVENTO claimed to have been subjected, the Mission stated that it was inclined to believe that many of the complaints were exaggerated." -- We accept that as it is -- "Nevertheless, the Mission stated, it had received so many complaints of this kind that it felt that real difficulties must exist..." (T/L.630, paragraph 70)

I was referring to that. What are these real difficulties? Why did the Mission state that, and why was the Administering Authority silent on this point? That was my question.

Mr. BARGUES (France) (interpretation from French): I apologize. I did not quite grasp the scope of the question of the representative of Syria. The text simply says:

"With regard to the oppressive measures to which supporters of the C.U.T. and JUVENTO claimed to have been subjected, the Mission stated that it was inclined to believe that many of the complaints were exaggerated. Nevertheless, the Mission stated, it had received so many complaints of this kind that it felt that real difficulties must exist. Noting in particular that one of the communications it had received at Palimé was a memorandum submitted by the local Chief of Police and seven of his subordinates supporting the views of the P.T.P., the Mission stated that it appreciated that under French law it was permissible for public servants to be members of political parties, but felt that active political campaigning by agents of the Government who might be required to protect the civil rights of persons supporting rival parties might create misunderstanding." (Ibid.)

The representative of Syria feels that the Administering Authority has not answered this observation. I will supply such an answer and I will request the President and the members of the Council to regard my answer as an observation of the Administering Authority in respect of this paragraph.

(Mr. Barges, France)

I was saying a while ago that political liberties were assured in Togoland, and the representative of Syria was kind enough to tell me that it was not his intention to question this position of the Administering Authority. Not only are these freedoms assured, but perhaps they are assured too liberally. A public official in France and French-administered Territories has the right to adhere to a political party and is entitled to be a militant member of such a party.

(Mr. Bargues, France)

Perhaps it is regrettable for a militant member of a party to be a local police commissioner or chief of police. This has happened in Metropolitan France. Police officials are not precluded from belonging to political parties, and certainly not precluded from belonging to opposition parties. Parties which are opposition parties today are likely to become the Government Party tomorrow in democratic countries. It would therefore be rather difficult to discriminate in this field. It may be regarded as regrettable, but if you accept the political regime you have to take all of it; you have to accept its advantages and its drawbacks alike.

Today the case of a police chief was mentioned who was a member, in fact a militant member of the majority party, the party which represents the overwhelming majority. It must be recognized that there is intolerance, if I may say so with all friendship to African populations which I have had to admire, in political matters, although it is not an exclusive privilege or monopoly of Africa -- far from it -- that is nevertheless particularly noticeable in West Africa. For a police chief to be a militant member of the majority party and for him to have availed himself of the power of his office in order to favour members of his party, and perhaps thrown monkey wrenches into the activities of rival parties, well I do not contest that the possibility exists. Perhaps the special representative may give us more precise information on the specific incident mentioned in paragraph 70 of T/L.630.

However, I should like to raise the debate to another level. May I add that if this had not happened there at this particular time and place, it might have happened elsewhere. It may happen every day in territory administered by France where this broad political freedom exists and where officials are permitted to belong to any political party. That a police chief did belong to a party is quite possible. If he abused his rights or powers to favour that party, then the Administering Authority should certainly take measures to see to it that it should not be done, or it should take measures to punish him.

I would not be in favour of prohibiting officials from being members of political parties. Militant action may indeed create misunderstanding, as the Visiting Mission says. I agree with that. When the population sees that a militant member of a party has an important office, the people may think that the position of that particular party has been officially consecrated or supported.

If a careful inquiry were made, I am sure that it would be found, especially in Southern Togoland, that instances have occurred where police chiefs have every opportunity to belong to the P.T.P. and C.U.T. and also to the JUVENTO, which are minority parties now; the latter two are minority parties but they used to control the majority of the Territorial Assembly. The police commissioner in this case is a member of the P.T.P. Since he was a member of the P.T.P., an opposition party, should he have been fired from his post as police chief? No more than now. Either the man does have his political freedom like anybody else, or else public officials become second-class citizens and thus are precluded from engaging in political activity, which is the privilege of all citizens, irrespective of their pursuits or occupations, whether they are public officials or not.

The special representative might perhaps add some information on this precise incident.

Mr. TOUROT (Special representative) (interpretation from French): In order to give a correct notion of the importance of the act attributed to this chief of police, I should like to make it quite clear that what was involved was the presentation of a petition to the Mission. People wish to assert themselves; they wish to present petitions, and the police chief may have wished to present a petition like anyone else who wishes to present a petition; it seemed to be a very popular pursuit, and he did so too.

Mr. ASHA (Syria): I wish to thank the representative of France and the special representative for their kindness in giving me such a full explanation. They have answered my question with all possible courtesy, and I hope I asked my question with all possible courtesy too.

Mr. Tourot withdrew.

EXAMINATION OF PETITIONS: 138TH AND 142ND REPORTS OF THE STANDING COMMITTEE ON PETITIONS (T/L.619, 626 and 632) Agenda item 47 (continued)

The PRESIDENT: Yesterday the representative of Australia presented a number of amendments to resolutions contained in the 138th report of the Standing Committee on Petitions. He was then asked to put these amendments into writing. This has been done, and these amendments are contained in document T/L.632 which is before the Council.

We will now consider the 138th report of the Standing Committee on Petitions contained in document T/L.619, and the aforesaid Australian amendments. In its annex the report contains four draft resolutions. We shall first turn to draft resolution I on page 1 of the annex. There are two amendments to this draft resolution presented by the Australian delegation.

Mr. BARGUES (France) (interpretation from French): The French delegation is happy to support the Australian amendments which affect draft resolutions I and IV, especially draft resolution I. There is no need for me to repeat the arguments already made very ably by the representative of Australia, who spoke with complete clarity. This report was drafted on 21 July 1955, and the meetings of the Standing Committee on Petitions took place on 19, 20, and 21 July 1955, much too early to allow the administrative measures involved to be brought to the attention of the United Nations.

The Australian amendments are merely designed to harmonize the text of the draft resolutions with the present factual state of affairs, a decision actually adopted by the Administering Authority. The text of the resolutions subsequently adopted by the Standing Committee on Petitions took account of the altered state of affairs in the Trust Territories, the altered state of affairs referring to the new administrative measures, which as I have just indicated, were adopted.

The PRESIDENT: We shall now vote on the first, 1 (a), of the Australian amendments.

Amendment 1 (a) was adopted by 8 votes to 5, with 1 abstention.

Amendment 1 (b) was adopted by 7 votes to 6, with 1 abstention.

Draft resolution I as amended was adopted by 7 votes to 4, with 3 abstentions.

Mr. BENDRYSHV (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to add to draft resolution II the following text as a new paragraph:

"4. Expresses the hope that the Administering Authority will take the necessary measures to satisfy the petitioners' legitimate rights to the land."

Mr. BARGUES (France) (interpretation from French): I do not see what useful purpose would be served by the amendment presented by the representative of the Soviet Union. The Administering Authority always takes the measures which are designed to satisfy all the legitimate rights that may exist. I shall therefore vote against the Soviet amendment.

The Soviet amendment was rejected by 7 votes to 1, with 6 abstentions.

Mr. JAIPAL (India): I should like to explain why I abstained in the vote on the Soviet amendment. It was simply because the effect of that amendment is more or less the same as that of paragraph 3 of draft resolution II.

Draft resolution II was adopted by 13 votes to none, with 1 abstention.

Draft resolution III was adopted by 13 votes to none, with 1 abstention.

The PRESIDENT: The Council will now vote on the three Australian amendments to draft resolution IV as contained in document T/L.632.

Amendment 2 (a) was adopted by 8 votes to 4, with 2 abstentions.

Amendment 2 (b) was adopted by 8 votes to 4, with 2 abstentions.

Amendment 2 (c) was adopted by 7 votes to 5, with 2 abstentions.

Draft resolution IV as amended was adopted by 7 votes to 3, with 4 abstentions.

The PRESIDENT: The Council will now vote on the recommendation of the Standing Committee that the Council decide that no special information is required concerning the action taken on resolutions I, III and IV, as contained in the report, document T/L.619, page 2, paragraph 3.

The recommendation was adopted by 7 votes to none, with 7 abstentions.

The PRESIDENT: We now come to the next and last report, namely, the 142nd report of the Standing Committee on Petitions, document T/L.626. Draft resolution I was adopted by 7 votes to none, with 7 abstentions. Draft resolution II A was adopted by 7 votes to 4, with 3 abstentions. Draft resolution II B was adopted by 7 votes to 1, with 6 abstentions. Draft resolution III was adopted by 7 votes to 3, with 4 abstentions. Draft resolution IV was adopted by 7 votes to none, with 7 abstentions. Draft resolution V was adopted by 7 votes to none, with 7 abstentions. Draft resolution VI was adopted by 7 votes to 4, with 3 abstentions.

Mr. BENEFYSHEV (Union of Soviet Socialist Republics) (interpretation from Russian): I voted against the last draft resolution because it does not satisfy the petitioners' complaints, especially with regard to the displacement of the indigenous inhabitants from their lands.

Draft resolution VII was adopted by 7 votes to none, with 7 abstentions. Draft resolution VIII was adopted by 7 votes to 4, with 3 abstentions. Draft resolution IX was adopted by 7 votes to 5, with 2 abstentions. Draft resolution X was adopted by 7 votes to 4, with 3 abstentions. The recommendation contained in paragraph 3, on page 2 of document T/L.626, was adopted by 7 votes to none, with 7 abstentions.

The PRESIDENT: I now call on the Under-Secretary, Mr. Cohen.

Mr. COHEN (Under-Secretary, Department of Trusteeship): The Council adopted yesterday, and has just adopted today, a considerable number of resolutions on petitions concerning the Cameroons under French administration. Of these, many emanate from the UPC or its branches or from affiliated organizations, all of which organizations have, since the date of these petitions, ceased to be legally recognized in the Territory. Although the resolutions are not expressly addressed to these organizations, I wish to point out that rule 93 of the Council's rules of procedure provides as follows:

(Mr. Cohen, Under-Secretary)

"The Secretary-General shall inform ... the petitioners concerned of the actions taken by the Trusteeship Council on each petition, and shall transmit to them the official records of the public meetings at which the petitions were examined."

The Secretariat wishes to state, without entering into any question of principle which may be involved, that it is not possible for it to communicate with the petitioners at the addresses given in their petitions and that in most cases no other addresses for the persons signing them are known. In explanation, I wish to state that a large number of communications addressed by the Secretariat to the UPC and its branches and to related organizations have been returned to the Secretariat during the latter half of 1955 with such indications as "dissolved organization" and "departed without leaving address". Those communications were intended to inform these organizations of the action taken on previous petitions or to acknowledge the receipt of further petitions or communications sent by them. The Secretariat would welcome an indication from the Council as to the manner in which rule 93 should be applied in the case of the resolutions recently adopted by the Council.

Mr. ASHA (Syria): I should like to ask the representative of France whether these communications could not be handed to them since, if I understood correctly, they were sent before the organizations were dissolved -- at least some of them, according to my understanding.

Mr. BARGUES (France) (interpretation from French): Surely, we are not going to study the substance of this question today. I should like, however, to say this:

It is France's desire to facilitate the Secretariat's task in every possible way. Had the solution proposed by the Syrian representative been likely to attain that objective, I should certainly have endorsed it. In so far, however, as Secretariat communications are addressed to parties whose existence France does not legally recognize, the French delegation cannot be held responsible for handing the communications over to the addressees.

I should like to propose a solution which may be applicable in some of the cases, if not in all. If the petitions bear a name and address, and if the name is not merely that of an association which has been dissolved, I would say that, instead of addressing the communication to an association -- or to a person in the capacity of an office-holder in the association -- the Secretariat might address the communication directly to a person at that person's domicile. In that case, the communication would go through the mails in the normal way.

Of course, an addressee may have departed without leaving a forwarding address. Or the post office may stamp a letter "Dissolved Organization" -- although I do not know whether it is really up to the post office to make that judgment; what has happened is that the post office has not been able to find the addressee. If the Secretariat communication is addressed to a person who was a member of one of the groups in question, and not directly to the group, the postal services in the Cameroons will see to it that the communication reaches the addressee. Some of the addressees, or presumed addressees, may have left the French Cameroons and their present addresses may be unknown. Some are now being detained. In the latter case, the communications will surely be handed over to the addressees. Of course, if the addressees have left without giving forwarding addresses, it will be very difficult for the postal services to transmit the communications addressed to them.

The French Administration is not, of course, in a position to summon members of a dissolved organization. In fact, if those members were so summoned, they would hardly answer the summons with great enthusiasm.

Mr. JAIPAL (India): Before I comment on the statement made by the Under Secretary, I should like to explain why I voted against many of the resolutions in which the Trusteeship Council merely took note of the observations of the Administering Authority. In our opinion, taking note of the observations of the Administering Authority is a somewhat curious method of dealing with petitions, a method with which we do not agree.

As regards the statement made by the Under Secretary, we cannot agree just now under any circumstances to a suspension of rule 93 of the rules of procedure. We do, however, see that the Secretariat is faced with a very practical difficulty. We feel that, if the present addresses of the petitioners are not known, the documents might be kept in the Secretariat's files until the petitioners write to the Secretariat again to inquire about their petitions; it is quite likely that the petitioners will write after some time has passed.

The suggestion made by the representative of France to send the documents to the persons who may have signed the petitions finds favour with my delegation.

Mr. GRUBYAKOV (Union of Soviet Socialist Republics) (interpretation from Russian): Before pronouncing myself on the substance of the issue raised by the Under Secretary, I should like to know how many letters have been returned with the indication that the addressees could not be found. Could a breakdown also be supplied as between letters sent to organizations and letters sent to private persons?

Mr. COHEN (Under Secretary, Department of Trusteeship): I understand that the postal authorities of the French Cameroons have returned to us between sixty and eighty communications. I am sorry that I cannot at this moment give the breakdown between communications addressed to individuals and communications addressed to organizations.

Mr. GRUBYAKOV (Union of Soviet Socialist Republics)(interpretation from Russian): I understand from our brief discussion of this question that the Secretariat will perform the functions and duties vested in it under the rules of procedure. Resolutions adopted on these petitions will be forwarded to the addresses mentioned in the petitions. In a number of cases an organization is indicated in the petition, but a person is also frequently mentioned, usually a person in the Territory. If such a person is in prison, as the representative of France has pointed out might be the case, the Administering Authority would surely find ways and means of forwarding such a resolution to that person. The Secretary-General, for his part, should perform his functions in the ordinary way.

The members of the Council who have spoken, including the representative of France, seem to feel that the letters should be sent in the ordinary manner. May I add that if the situation is such that letters are returned, and if that situation becomes critical in the sense that very many letters are returned on the grounds that the addressee cannot be found, then perhaps the Secretariat will have to draw up a list of the resolutions which have not reached the petitioners -- of petitions on which the Council adopted resolutions which could not be delivered to the petitioner. At that time the problem certainly would have to be discussed in greater detail here. At the moment, of course, there is no such problem as such, as I have said.

Mr. BARGUES (France)(interpretation from French): I fully agree with the representative of the Soviet Union. I might even go further and add specifically that when a petition has been submitted by an organization but contains some clue to the identity of an individual among the members of that organization, with his address perhaps, then the resolution of the Council on that petition might be sent not directly to the organization in question, which might have been dissolved, but to the individual mentioned in the document in some capacity.

Mr. JAIPAL (India): I should merely like to explain that we accepted the position of the representative of France on the understanding that no action would be taken against persons for receiving these documents from the Secretariat. I wonder if the representative of France could confirm this?

Mr. BARGUES (France)(interpretation from French): I can give the representative of India a formal assurance on that score. As I indicated at the beginning of my first statement, we are merely discussing here a procedural problem confronting the Secretariat, and we should contribute to the solution of that problem. I am in no way touching upon the substance of the problem. All I am doing is trying to help the Secretariat deliver to the proper addressees correspondence whose nature we are not discussing at all at the present stage.

Mr. ASHA (Syria): I merely wish to thank the representative of France for his co-operation with the Council on this important matter. May I add that perhaps departments other than the Post Office would assist in locating some of the addressees, and that no effort should be spared by the Authorities in the Territory to see that these communications reach the hands of those to whom they are addressed.

The PRESIDENT: The Council will meet again at 2 p.m. on Monday.

The meeting rose at 5.40 p.m.