

UNITED NATIONS  
TRUSTEESHIP  
COUNCIL



PROVISIONAL  
T/PV.747  
12 December 1956

ENGLISH

Sixth Special Session

VERBATIM RECORD OF THE SEVEN HUNDRED AND FORTY-SEVENTH MEETING

Held at Headquarters, New York  
on Wednesday, 12 December 1956, at 10.50 a.m.

President:

Mr. ASEA

(Syria)

The future of the Trust Territory of Togoland under French  
administration (T/1290, 1291 and 1292) (continued)

Note: The Official Record of this meeting, i.e., the summary record,  
will appear in provisional mimeographed form under the symbol  
T/SR.747 and will be subject to representatives' corrections.  
It will appear in final form in a printed volume.

56-34380

(32 p.)

THE FUTURE OF THE TRUST TERRITORY OF TOGOLAND UNDER FRENCH ADMINISTRATION (T/1290, T/1291 and T/1292) [Agenda item 2]

The PRESIDENT: I may recall to the Council that at our meeting last Monday we heard a statement from the representative of France. We then decided to postpone further consideration of the matter pending the circulation of the report of the Referendum Administrator. The report has been circulated, both in French and in English, in document T/1292.

Mr. BARGUES (France)(interpretation from French): Speaking on behalf of the French delegation, I had the honour of making a short statement to the Council at our last meeting. In that statement I introduced the memorandum addressed by the Government of France to the Secretary-General of the United Nations and, for the benefit of members of this Council, I commented on its main points. As I have already indicated, I am at the disposal of the Council to provide such additional explanations as may be requested, and I also intend to furnish a few more details on the problem during the course of the general debate.

I believe it desirable and necessary for the Council to have at its disposal two additional sources of information, apart from the material submitted by the French Government.

(Mr. Bargues. France)

First, as I had the honour of informing the Council, we have the pleasure of having with us a representative of the Government of the autonomous Republic of Togoland, Mr. Apedo Amah, Minister of Finance. If the President is agreeable to his doing so, he will make a statement of principle in the name of his Government and he will be at the disposal of members of the Council -- as I shall be, also -- to give any supplementary information that may be necessary. After his statement is completed, if the Council is agreeable, the Referendum Administrator, Mr. Guy Périet de Féral, will also be able to provide the Council with any explanations necessary to supplement the information in his report, which, as the President has mentioned, was distributed yesterday in the French text, and today in the English, to members of the Council.

The PRESIDENT: I assume that the Council would like to hear the statement of the Minister of Finance of the autonomous Republic of Togoland, Mr. Apedo Amah. I invite Mr. Apedo Amah to take a place at the Council table.

At the invitation of the President, Mr. Apedo Amah (France), Minister of Finance of the autonomous Republic of Togoland, took a place at the Council table.

Mr. APEDO AMAH (France), Minister of Finance of the autonomous Republic of Togoland (interpretation from French): The procedure adopted by the Fourth Committee, which consisted in dealing separately with the question of Togoland under British administration and that of Togoland under French administration, answered the need for clarity in the discussion, and was logical as well. The situation in the two Territories, however, is similar, and thus the solution proposed for the problem in one Territory should be the same for the analogous problem in the other Territory.

In accordance with the right of peoples to self-determination, which is the basis of the Charter of the United Nations, and with the importance given by the Trusteeship Agreements to the aspirations of the peoples of the Territories, it is for the people of each Territory, having reached political maturity, freely to determine the future of their respective countries.

In Togoland under British administration, a recent plebiscite indicated the wishes of the people: 58 per cent of the voters were in favour of union with the Gold Coast; 42 per cent held a different opinion, which is their right. But

their spokesmen came to the United Nations to oppose -- I do not know on what right or principle they based their action -- the clearly expressed wish of the majority of the population. The Fourth Committee reminded them of the great principle of democracy by which the minority should accept the decision of the majority, even though it is a large minority, and on 29 November it adopted a resolution which it recommended to the General Assembly, reading as follows:

"The General Assembly...

"1. Expresses its approval of the union of the Territory of Togoland under British administration with an independent Gold Coast...

"2. Resolves with the agreement of the Administering Authority that, upon the date on which the Gold Coast becomes independent and the union with it of the Territory of Togoland under British administration takes place, the Trusteeship Agreement approved by the General Assembly in its resolution 63 (I) of 13 December 1946 shall cease to be in force, the objectives of trusteeship having been attained;". (A/C.4/L.439, pp. 6-7)

At the time when the Fourth Committee was taking this decision, the people of Togoland under French administration, as well, had just come to a decision on the future of their country, after a long period of evolution which, with the President's permission, I should like to describe briefly.

In 1920, the first year of French civil administration and for the first time in Togoland, Africans entered the Administrative Council, a consultative body which met with the Governor of the Colony. In the following year, Councils of Notables were set up in all the circonscriptions, made up solely of Togolese, and they dealt with the administration of regional affairs. Delegations from these Councils of Notables met each year at Lomé with the Administrative Council in a large body called the Economic and Financial Council, whose name indicates the nature of its activities. Later, municipal commissions were created. Thus, the participation of the Togolese in directing the affairs of their own country was begun at an early date.

In May 1945, a large conference of individual representatives of the country, called by the High Commissioner of the Republic after the French-African conference of Brazzaville, formulated the aspirations -- now fully achieved -- of the Togolese people: representation of the Territory in the French Parliament; the status of an autonomous State; the elimination of consultative bodies and their replacement



by local deliberative assemblies; and, finally, the institution of communes de plein exercice, and so forth.

The final stage was in 1946. The Togolese obtained seats in the metropolitan assemblies. A representative assembly, consultative in certain matters and deliberative in others -- notably budgetary matters -- was created at Lomé, and in each region there were set up conseils de circonscription and mixed communes.

In 1951, the deputy of Togoland to the French National Assembly -- who is now the Head of the Government of the autonomous Republic of Togoland, which I have the honour of representing here -- recalling the wishes expressed by the conference of May 1945, to which I have just referred, requested the French Government to grant Togoland the status of an autonomous State. A draft law was tabled in the French National Assembly at Paris. As with all draft laws, it went through the normal parliamentary procedure, which is very lengthy; it was amended several times on the initiative of the Government and the Togolese deputies, and was enacted much later as the Act of 16 April 1955 which created new institutions in Togoland: a Government Council, which was the beginning of a Cabinet of Ministers, a Territorial Assembly with expanded powers, and Conseils de circonscription.

The Togolese accepted this law, which was debated at length, as I have mentioned, by their representatives to the French Parliament, because they knew that it was not final but, rather, a beginning of the ultimate stage which was to be attained rapidly. The action of Togolese parliamentary representatives in the metropolitan assemblies and the wishes expressed by the Territorial Assembly resulted in the Act of 24 August 1956, which granted to Togoland the status of autonomous Republic. This charter, also, is the result, in the first place, of lengthy conversations with the French Government, carried on in an atmosphere of complete freedom, mutual understanding and sincere friendship -- for which I am happy to express my gratification at this time -- and, later, of significant amendments submitted by the Territorial Assembly of Lomé to the draft presented by Paris.

This charter is not completely rigid. Its character is essentially evolutionary, and it fully reserves the right of the Togolese alone to modify it when they deem it advisable.

(Mr. Apedo Amah)

It is article 38 and I will read it out:

"The present Statute which is susceptible of evolution may be modified following a wish expressed by the Togoland Legislative Assembly. No modification may enter into force until it has received the favourable vote of the Assembly." (T/1290, Annex, page 9)

I should also like to draw the attention of the Council to the declaration made by the French representative in answer to the statement of the Burmese representative made on 7 August last. Mr. Mya Sein stated that the weakness of the referendum proposed was that it did not suggest as a possibility full independence. The French representative then mentioned that those who were in favour of full independence would be able to vote for continuing the Trusteeship System, which does not prejudice the future. He added that adoption by the Togolese of the autonomous statute which was offered to them did not preclude other solutions, that the political status of a country is not inflexible, and that the French Government did not consider, in any case, that the statute of autonomy which was offered to the Togolese would, as a consequence, crystallize immutably the political development of Togoland at a particular stage.

The essential aim of the Trusteeship Agreement for Togoland under French administration has thus been achieved. The normal course of events is that this Agreement should eventually come to an end. In order to find out the views of the population of Togoland on this matter, the Administering Authority organized, on 28 October 1956, a popular referendum covering the whole Territory, asking that observers be sent by the United Nations to supervise the operation. My Government can consider the refusal of the Trusteeship Council, by a split vote, to send observers only as a confirmation of the fact that this was merely a formality. Neither the Charter nor the Trusteeship Agreement mention in any way that such observers are a necessity. It also confirmed the fact that it was possible, without the presence of United Nations observers, to carry out such a referendum in perfectly correct form, as was the case.

The Trusteeship Council is fully justified in having implicit confidence in the Administering Authority. The referendum of 28 October and the preparations for it were organized and controlled by high officials in the Administration

(Mr. Apedo Amah)

and senior magistrates of the French metropolitan Government were completely satisfied that it had taken place under fully satisfactory conditions. In fact, any objective observers could not but accept it as such and we feel sure that the Council will do so, also, as objectivity is a tradition in the Trusteeship Council.

I take the liberty of quoting from the Report of the Referendum Administrator (T/1292) a few figures to give you, quickly, a general view of the situation. Out of a theoretical total of 575,000 voters, calculated on a basis of universal suffrage, only 437,436 were registered on the electoral lists. The number of voting cards distributed was 409,566 but the others did not obtain cards. The number of electors who availed themselves of the right to vote was 338,811. After deducting the invalid ballots, the number of votes cast was 335,778 of which 313,532 voted in favour of the Statute of Togoland and the termination of the Trusteeship Agreement and 22,266 voted for the continuance of the System. Some eligible voters -- 17.27 per cent, including those who usually take no interest in the voting, preferring to go out to the fields, or to go fishing, or to stay at home -- did not participate in the vote. Some also did not vote because they were prevented by illness or voyages -- and you know how much the Africans like to travel -- and others did not vote because they followed instructions to abstain given by some political parties, a procedure which is a habit with those parties. A petitioner stated to the Fourth Committee, to justify the abstentionist attitude of this party, the following: "We were in good company, as you know -- the Trusteeship Council itself refused to deal with the referendum. The Trusteeship Council boycotted the referendum, and we did the same."

That is what the petitioner stated. As far as I am concerned, as I have just said, there was no obligation for the Trusteeship Council to send any observers, although it is not only right -- voting in the referendum -- it is above all, for all citizens, a duty for all those who wish democratic rule, to take part in the political life of their country. It was not the first time, at any rate, that this party did not accomplish its duty, for a very simple reason, as will be seen in the following figures.

(Mr. Apedo Amah)

In 1946, with an electoral body of 8,000 voters, this party achieved a victory in electing a deputy to the French National Assembly. They have, thus, almost all of the total number of seats in the local representative assembly. In 1951, the electors were more numerous. There were 50,000 of them, so this party lost its seat in the French National Assembly, and in 1952, the seat they had in various other French assemblies, and three-quarters in the local assemblies were also lost. In 1955, the number of electors was already 190,000 and this party, under invalid pretext, such as the one quoted here recently, adhered to abstentionism so as to be able to claim, without having to produce evidence, that they represented the majority. However, this manoeuvre cannot fool anyone.

To come back to the concrete results of the referendum, 71.51 per cent of the electors approved the Statute and asked for the termination of the Trusteeship System and that the rights of the people who had come of age should be recognized. Five per cent of the electors, for reasons which cannot be explained, refused autonomy for their country.

Here, I am naturally led to compare this with the situation resulting from the plebiscite in British Togoland. With our neighbours, having an electoral body roughly of the same importance and percentage of participation, the 160,587 votes cast were distributed as follows: 58 per cent one way, 42 per cent the other way.

(Mr. Apedo Amah)

At the beginning of my statement, I said that the situation in the two Togolands, after that popular referendum, was roughly analogous; I just gave evidence of this. I should like to add simply that the difference in the two opposing trends is much more sharply defined in Togoland under French administration -- 93.37 per cent of the votes cast, against 6.63 per cent; this majority is substantially the same in the two parts of the country, the north and the south.

To illustrate the importance and scope of this referendum, the Legislative Assembly unanimously adopted a motion asking the Government of the French Republic "to ratify before the whole world the decision of the people of Togoland by notifying the United Nations, in view of the recognition of the Statute of Togoland, of the instruments dealing with the termination of the International Trusteeship System which ceased to have effect, de facto, as of 28 October 1956 at 5 p.m. with the closure of the referendum operations".

The guardian, France, which for forty years has been guiding the political, economic and cultural development of Togoland, agreed to relinquish its guardianship of this territory, its task having now been completed. France has now come before the Trusteeship Council -- it is a family council -- in order to ask it to sanction officially the freedom which it has just granted to its ward which has just been emancipated. This ward -- the young autonomous Republic of Togoland -- joined the Administering Power in coming to this Council with a feeling of gratitude to France and to the United Nations, and also with a feeling of complete assurance that there is no possible example of a family council which would refuse -- contrary to all the evidence -- to acknowledge the fact that a ward has come of age.

It is even less possible to imagine that the Trusteeship Council -- which has the duty to encourage and promote the emancipation of Trust Territories -- could refuse to apply the provisions of the Charter itself. If this were to happen, would it have anything better to offer the autonomous Republic of Togoland?

I am particularly happy to prejudge the Council's favourable attitude and to foresee the future in this favourable light.

I ask you, Mr. President, to accept, on your behalf, and to transmit to the members of the Council the respectful and cordial salutations of the Premier, the

Head of the autonomous Government of Togoland, which he asked me to present here, and I am happy to join with this my own personal thanks for the kind attention with which the Council and yourself, Mr. President, have listened to my statements.

Of course, I am completely at the disposal of the Council to answer any such questions as may be put to me.

At the invitation of the President, Mr. Périet de Féral (France), Referendum Administrator, took a place at the Council table.

Mr. PERIER de FÉRAL (France, Referendum Administrator) (interpretation from French): Mr. President, I wish to thank you for having been kind enough to call upon me here in this Council, thus permitting me to present to the Trusteeship Council -- whose authority is very great indeed -- the results and details of the referendum which the French Republic requested me to conduct on 28 October last in Togoland under French administration.

I believe that I should, first of all, set forth the terms of the decree which authorized the referendum held in Togoland. This decree had two particular objectives in view: first, to establish this referendum in circumstances of complete impartiality and, secondly, to see that the referendum be conducted in an atmosphere of complete objectivity and, as I said before, impartiality, in order that the results of this referendum -- the very first such referendum ever held in Togoland -- might be decisive indeed.

I would say that the decree of 24 August 1956 set forth the referendum and stated that it was to be organized and directed by a referendum administrator who was appointed by the French Government and, thus, he was placed in a position of complete independence from the local authorities; under the terms of the decree and according to the will of the French Government, he alone prepared and directed the operation of this popular consultation.

In choosing me, the choice was not based upon any political or personal considerations but, rather, upon a judicial nomination by le Bureau du Conseil d'Etat. The President and Vice-President presented my name to the Government for this mission. Le Conseil d'Etat and its subsidiary bodies are essentially judicial bodies which are independent and have statutory guarantees which mean that we cannot be dismissed, thus making certain that we will exercise our authority without requiring us constantly to give an account of our activities.

(Mr. Périet de Féral)

In going to Togoland, I wanted this referendum which was to be organized -- and I must say that when I was designated, I was to have the assistance of observers from the United Nations -- to be conducted by judicial officers who could give me an account of the exact execution of my instructions. I have set forth in my report that I divided the preliminary work into two parts: first, a material task, namely, to organize the distribution of voters' cards and the establishment of polling places and, secondly, the supervision of these very operations.

None of these judicial officers had ever participated in any such work in Togoland. These were judicial officers who had served in other areas or in the metropolitan Territory and I had a free choice in choosing them. As I say in my report, I was assisted by a number of administrators -- by a number of people -- who had material tasks to perform and whose work was checked by the judicial officers whom I had chosen, magistrates or judicial officers from the Conseil d'Etat and administrative offices.

There were some thirty-two persons on my staff, and I owe a very great deal to their vigilance and diligence.

What was I called upon to do first? First of all, I had to make known to the people of Togoland the new Statute which was being put before them. I had to draw their attention to the importance of the referendum and the scope of the questions being put to them. You might say that this was the first difficulty. In disseminating this information we did not wish to appear to favour one side or the other; we had to be objective in the matter. However, it might be said that once the people's attention has been drawn to the new Statute, that is the beginning of propaganda in favour of the Statute.

I was very careful to follow my instructions and to make it very clear that in giving this information to the people there should be no appearance of propaganda and that they should not be urged to vote one way or the other. It is not for a foreigner to Togoland, with a certain specific mission, to conduct tendentious propaganda in that Territory. What I sought was for the population of Togoland to have a choice in an atmosphere of freedom. I wanted the population to have sufficient information concerning the scope of the referendum, I asked that my staff and my observers be permitted to go to various localities and advertise the referendum, under the supervision of the observers, and to explain to the people the choice being presented to them. This was done. We did everything that it was necessary to do in order to inform the people of the popular consultation. This was done through lectures undertaken by members of my staff, through the distribution of numerous copies of the Statute, and under the circumstances we can say that the people understood that they were being asked to take a choice and what that choice was. The people of Togoland understood as well as did the people of France when, in 1946, they were asked to decide by referendum on the subject of the Constitution of their country. I might say that at that time the questions put to the French people were much more complex than the questions put to the people of Togoland. I can give my personal assurance that the people knew what was being asked them.

With regard to the political parties, I hoped that all would participate in the referendum and that they would conduct their own publicity campaigns. But I was disappointed. Certain political parties did agree to participate in the referendum, but others abstained. I deplore this fact since I assured them of every facility for collaboration in the conduct of this referendum.



I come to the question of the electoral lists. This was the first time that such a widespread election had taken place in Togoland. In my report will be found a table which will indicate the growth of the electorate during the past few years, and it will be noted that from 7,963 in 1948, to 16,830 in 1950, to 50,870 in 1952, to 152,099 in 1954, the figure in 1956 passed from 282,775 to 425,983, a figure reached by 31 March 1956. There has been a very rapid increase. I wanted to find out whether this large number of registrations covered the whole population, whether the theoretical number of voters which I had computed corresponded to the number of electors actually voting. As you know, this is a matter concerning a population which has its own particular customs, it is a matter concerning a country where the civil register is a comparatively recent institution, it is a matter concerning people who do not wish to vote for fear of having to pay taxes. In spite of these difficulties and thanks to the efforts of the Administration to keep the census up to date, we succeeded in registering some 437,439 voters, or about 75.8 per cent of the theoretical electorate. In reality the percentage was even greater but we had to eliminate from the theoretical figure of 575,000 electors, those who, according to law, are not permitted to vote. This includes the mentally ill, those convicted of criminal offences, and so forth. We also had to take into account seasonal migration. In deducting this latter group it can be seen that the figure for voters registered is in reality about 78 to 80 per cent.

I have compared these figures with those of other countries, with those of other Territories, especially African Territories, and I realized that for Togoland this was truly a satisfactory effort, and that taking the circumstances into account we could indeed feel that this represented practically the whole electorate.

Now the most important thing is to know whether this electoral list, which was fixed at 425,983 before my arrival, can be completed.

(Mr. Périet de Féral)

I have said that the electoral list, drawn up under the General Law, on 31 March 1956 could be completed by establishing universal suffrage as provided for in the Decree of 7 July 1956 calling for the application of the loi cadre. This established universal suffrage in all overseas territories. We thus had a first revision of the list of voters. This same Decree indicated that this list of voters was to be revised once again and that any person could ask to be included on the list. I implemented this provision of the Decree and made an announcement, through the offices of all the political parties, telling them that it would be possible for them to register their party members on the list of voters. I addressed myself to the Presidents of the various parties. I must say that I was not very successful with certain parties since my letters were returned without comment. These were registered letters in which I pointed out the great importance of the referendum and in which I asked that the various newspapers be requested to publish copies of the letters. These letters were, however, returned. In other cases I received replies telling me that it would be impossible, for political reasons, for the parties to participate in any sort of publicity campaign concerning the referendum.

I had a great many pamphlets circulated and had radio announcements made to the effect that it would be possible for everyone to register to vote. That appeal was not in vain since there were about 17,000 additional registrations. This was especially so in the South where there were many such registrations, which raised the percentage of the registering of votes in Palimé, Lomé, Tsévié and Aného, towns where the political parties were most critical of the referendum.

In spite of these difficulties which I encountered, I believe that I did increase the list of voters under satisfactory circumstances. If questions are put to me in regard to this matter, I shall try to explain further.

I should have liked to have the co-operation of the political parties, as provided for in the Decree. That was the case in the Gold Coast where the vote was taken with the participation of the political parties. The Decree in Togoland specifically called for this participation by the political parties in helping us

(Mr. Périet de Férat)

to distribute the voters' cards and set up the polling places. It would have been very helpful if the parties themselves checked the referendum. I had to overcome some of these difficulties. On the one hand, it had been provided that I should designate the Chairmen of the Card Distribution Committees and, on the other hand, that these Committees should be composed of persons from amongst the various communities.

I also designated a Chairman and two advisers for the polling booth groups. The choice of these, in my opinion, assured the objectivity and impartiality of the operations, this despite the fact that certain parties did not have observers present. That was not always the case. I must, with satisfaction, report that in the city of Lomé four representatives of opposition political parties agreed to take part in the Card Distribution Committees. They wrote letters, which I have here, in which they stated that they were placing themselves at the disposal of the Referendum Administrator so as to perform a task which they felt to be useful. Consequently, it can be seen that there was not total abstention on the part of the political parties. In spite of the position taken by certain political parties, I determined to go further. Considering that the abstention might represent a political position, I decided to agree that the representatives of opposition parties might take part in the various Committees. I made such a proposal to one of the leaders of the parties. He recognized that some of the members of his party had assisted in distributing the cards. He did not want to do any more. To this I replied that I did not wish to ask him to make a commitment, but merely wanted him to be present to see that all of the operations were carried out in broad daylight and in all honesty.

The operations took place under very careful supervision. This was so because, on the one hand, I designated my representatives and, on the other hand, because the members of the Card Distribution Committees and the observers and the judicial officers whom I designated observed many such card distribution operations and, on the day of the referendum, appeared in person or sent delegates to supervise the conduct of the referendum. Consequently, the evidence given by them is of the greatest value. They realized that certain defects existed with regard to the distribution of the cards and that this was so because

(Mr. Périer de Féral)

the job was a big and difficult one. The Committees had to go to remote districts and to little villages. It was difficult to do this since the card had to be placed in the hands of the voter himself. I had informed all of those involved that these instructions had to be carried out in detail. We did not give a wife the card intended for her husband or a husband the card intended for his wife. The individuals had to come in person to get their cards. The members of the Committees sometimes found that there was duplication in the issuance of the cards. They corrected this as far as it was possible to do so. Occurrences of this sort are often encountered in setting up voting procedures in the villages. They saw that more than one card had sometimes been made out in the name of a given individual, owing to the erroneous copying of the same page of the register twice.

(Mr. Périér de Féral)

Whenever they found such errors in the names the excess cards were withheld and not actually distributed. Therefore, I do not think any real criticism can be made of the distribution of the cards and the procedure of voting. I feel that the vote in Togoland on that day was taken in an atmosphere of calm, of objectivity. However, a problem arose for the High Commissioner because he is responsible for order in the Territory although he could only operate with my consent during the voting.

For the maintenance of order on that day -- when there might have been incidents, rivalries or conflicts in the streets -- the number of individuals who were called upon to serve as police, gendarmes and as military was about 900 men. I could give the Secretariat the official documents showing how public order was to be maintained that day. No representatives of public order were stationed in a polling place or at the door, because that might have seemed as if they were exerting pressure on the electorate but the chairmen of the Polling Committees knew that one or two guards, stationed not far from the polling place, could be called upon in case anyone disturbed public order. This is also done in France. We had some 420 of these guards stationed throughout Togoland so many polling places did not have guards stationed near them. The people of Togoland were calm and sensible; the few platoons of gendarmes that we had there did not have to intervene at all -- not a single time. The regular gendarmerie had few reinforcements. Also, two military reserve groups were stationed at Lomé and along the frontier.

With regard to the frontier group, it has been interpreted as a form of pressure on the electorate. This is not the case. I should like to tell you that during the plebiscite on 9 May in Togoland under British administration the frontier was closed and the police, under orders from the British High Commissioner, asked the authorities of French Togoland to co-operate in closing the frontier, which was the normal thing to do. The same thing happened in French Togoland. However, we did not want the twenty-four-hour closing of the frontier to be a hindrance to any voters. We issued instructions to the frontier police to the effect that any voter in possession of a voter's card should be allowed to cross the frontier, that all press correspondents no matter what their nationality should be allowed to cross the frontier. Such authorization was even given to certain Togolese

(Mr. Périet de Féral)

people who had to leave Togoland or who had expressed a desire to leave Togoland on that day. I do not imply any political significance but there were the cases of Mr. Sylvanus Olympio and Mr. Santos. The latter wanted to go to Ketah to be married, and to go back and forth across the frontier. We authorized him to do so in order to attend his family's celebrations. Thus, we were not exerting pressure on the electorate in authorizing him to go to Ketah and return, even though the number of abstentions was high in that region.

I should like to thank the Trusteeship Council for the attention it has given to my remarks. I believe I have explained my report sufficiently, at least with regard to the referendum.

With your permission I should like to discuss the lesson to be learned from the results of the referendum. I should like to give you some exact figures.

By that day, 438,436 registered. You may be surprised at the difference between this figure and the list drawn up early in October, which was 437,000, but, up to the very day of the ballot, additions could be made to the electoral list by order of a juge de paix. Names could be added of people who were omitted on the earlier ballot. In certain communes the orders of the juge de paix arrived only on 28 October. This explains how several hundred electors were inscribed on the list on 27 and 28 October. I repeat, there were 438,436 registered voters and 409,566 voters' cards. I have explained this difference. The number of persons voting was 388,811 and the number of votes cast was 335,778. Here a problem arises. We have just seen that the number of votes in favour of the Statute of Togoland set forth in the Decree of 24 August was 313,532 and there were 22,266 votes against.

(Mr. Périer de Féral)

It may be noted in a table published at the time of the proclamation and dealing with a certain number of communes in what was considered a favourable area, 18,000 voted against the statute. Now to what is this to be attributed? Should it be assumed that these votes were cast by those who opposed the Trusteeship régime, or must we regard this as an exceptional situation? I wish to provide some information on this point.

According to my observers, the cause of this vote of 18,000 against the statute is local rivalry between the delegates to the Legislative Assembly and certain local people. The vote cast in Dapango was in opposition to the influence of these delegates to the Legislative Assembly of Togoland. This is not a new phenomenon. In the elections of 12 June 1956, the electors of Dapango had cast 5,777 ballots in opposition.

Therefore, if we deduct these 18,000 or so votes, there remain but 3,407 votes against the Statute. But we must consider the influence exerted by this opposition and the reasons for it. It is led by eminent men -- men who might become statesmen, with the ability to guide the affairs of their country, to participate in the duties of government. Is the influence exerted by these men the sole explanation?

Now let us consider the number that abstained from voting -- 78,000. But does not this figure include a normal percentage of abstentions? Wherever democratic elections are held, there is always a certain percentage of abstentions. In France, for example, the percentage of abstentions varies according to the issues involved and the interest aroused in the electorate. It is not extraordinary to find from 20 to 25 per cent of abstentions from voting, in France. We might consider what is the normal percentage of abstentions in countries adjoining Togoland, and in Togoland itself. We find that in French Togoland the percentage is about 20, and in British Togoland there are about 17 per cent of abstentions. The calculations I have made show that 15 per cent of abstentions is quite usual. All the votes above that quite usual figure of 15 per cent may be attributed to the parties opposed to the Statute.

Knowing Togoland as I do, I venture to state that these parties draw their main support from the southern area.

Abstentions by members of the CUT, the JUVENIO and other parties thus account for 26,881 votes. By adding to this the number of votes against the Statute, we arrive at a figure of about 30,000.

A lesson may be learned from this Togoland referendum, and I shall indicate to the Council what I believe this lesson to be. A great mass of people participated in this election, and despite inevitable imperfections -- errors, even the possibility of fraud -- in a few thousand votes, the percentage of such imperfections is not very considerable or important in relation to the entire referendum. Men and women participated without discrimination as to their status, and the percentage of women voters was almost as high as that of the men. The population of Togoland was conscious of the issues at stake as they involved the future of the country; these people understood what they were to decide at the polls, and I can vouch for their having voted freely.

The PRESIDENT: I should like to ask whether members of the Council have any questions in connexion with the statements made, or if anyone wishes to speak on the matter.

Mr. DAVIN (New Zealand): I have no questions regarding the two statements made, but I should appreciate the opportunity at some time to ask the representative of France certain questions concerning the Statute.

The PRESIDENT: The Council would like to hear any questions either to the representative of France or to the other speakers on this subject.

Mr. DAVIN (New Zealand): I should like to refer to the Statute which is contained in document T/1290, and to allude especially to its article 11:

"Before the expiration of a period of ten clear days from the adoption of a law of Togoland, the High Commissioner may, in a statement giving his reasons, request the Assembly to review its decision; such a request may not be denied."

I assume, from the rest of this article, that should the Assembly find the request for review not affecting its decision, the law would be promulgated at



the expiration of ten days. If, however -- and this is the question I have to ask of the representative of France -- the Assembly should decide that the reasons given by the High Commissioner justify an amendment to the law, what would be the procedure for inserting such an amendment?

Mr. BARGUES (France)(interpretation from French): I believe that in attempting to interpret the provisions of the Statute we must, almost automatically, refer to the constitutional principles of France. As we know, the Statute was drafted by French lawyers who were assisted by certain leading men of Togoland who had received their legal training in France. Generally speaking, we may say that the constitutional structure for Togoland is based on the constitutional principles of France.

To a certain extent, therefore, the High Commissioner's role is that of the Head of State in France, and he has analogous powers. The laws are voted upon by the Legislative Assembly, and they are applicable after a certain time-limit -- ten days, I think. But the High Commissioner has the power to ask the Legislative Assembly to proceed to a second reading of these laws. The Assembly is not entitled to refuse this second reading. Therefore, the question is sent back to the Assembly.

Two solutions are possible. If the Assembly considers that the arguments advanced by the High Commissioner are valid, it amends the text accordingly and the law which is considered to have been voted is not the law resulting from the first reading, but that resulting from the second reading. Thus, there is no amendment to be added to a text which has already been promulgated; the changes which are voted during the second reading are incorporated in the initial text to create the final text, and the law becomes final in its second, amended form. Another solution is possible: if the Assembly considers that the observations submitted by the High Commissioner are not deserving of attention, then the vote on the law is confirmed, and the law retains its original text without any amendment. The High Commissioner then has no possibility of preventing the promulgation and implementation of the law.

Mr. DAVIN (New Zealand): I have a second question which relates to article 16, which provides that

"The High Commissioner or his lawful deputy shall preside at the meetings of the Council of Ministers". (T/1290. annex. p. 5)

I should appreciate further information as to the functions of the High Commissioner in this role. As the Prime Minister and his Ministers are responsible to the Legislative Assembly, I assume, of course, that the High Commissioner does not participate in decisions which involve their responsibility to that body. But perhaps the representative of France could enlarge on the information given in the Statute.

Mr. BARGUES (France) (interpretation from French): The observation of the representative of New Zealand is quite proper. Here, again, I shall refer to French constitutional rules. The Council of Ministers, composed of the Prime Minister and the Ministers, is responsible only to the Assembly. The President

(Mr. Bargues, France)

of the Republic, the Chief of State, is not responsible to the Assembly. In the Council of Ministers, it is the Ministers who take the decisions, and they have, eventually, to resign if they are in the minority in a vote in the Legislative Assembly. In Togoland, the Ministers are responsible to the Legislative Assembly. The High Commissioner again has the same role as the President of the Republic when he presides over the Council of Ministers. The High Commissioner is responsible for the general organization of work and the orderly conduct of the proceedings of the meeting. He may take part in the discussions by offering suggestions and advice, but he does not participate in the taking of decisions, and his responsibility is in no way involved.

Let us suppose that the Council of Ministers takes a decision. The decision is taken by the Togolese Council of Ministers, and it may receive a minority vote in the Assembly without the High Commissioner's intervening in any way; the responsibility of the High Commissioner is in no way involved.

I am speaking of French constitutional rules, while -- if I understand him correctly -- the representative of New Zealand is probably referring to analogies in British constitutional practice. I do not believe, for example, that in New Zealand the Cabinet would be presided over by the Governor-General. In London, the Cabinet is not presided over by Her Majesty the Queen. The French constitutional rule is a sort of intermediary solution between British practice and United States practice, where the Chief Executive is at the same time the head of the Government and the Head of State. In France, there is a Head of State who is not responsible to the Assembly, and a head of Government who is. The Council of Ministers is presided over by a non-responsible head. And, as I have pointed out, mutatis mutandis, some of the functions which in France are those of the President of the Republic, come within the rights of the High Commissioner in Togoland.

Mr. DAVIN (New Zealand): Those were the questions which I wished to ask. I should like to assure the representative of France that I have done my best to forget my grounding in British constitutional practice, in directing these questions, and I thank him for his answers.

The text of the report of the Referendum Administrator was, of course, distributed only this morning, and we had a very lucid explanation of it by the

Referendum Administrator. Should I have any questions arising from my study of it, I have no doubt I shall have an opportunity to ask them at a later stage.

Mr. SEARS (United States of America): I have a question which puzzles me, and which I should like to direct to the representative of France. In his statement two days ago, he referred to the request of the French Government that the General Assembly terminate the Trusteeship Agreement. Then he went on to state:

"The Administering Authority would also be obliged to terminate the controls which it exercises, in accordance with Part X of the statute of the autonomous Republic of Togoland which states that the existing régime can only be regarded as provisional." (T/PV.746, p. 4-10)

Then I read, in Part X of the statute, article 39:

"As long as Togoland remains under the international system, such provisional trusteeship as seems advisable... shall be exercised over the powers of the Togoland authorities..." (T/1290, annex, p. 9)

Now, I may have read this incorrectly, or at least it may appear to me to be wrong. My question is this: Is part of the Trusteeship Agreement about to be suspended, regardless of the action of the General Assembly?

Mr. BAIRGUES (France) (interpretation from French): I am sorry, but I did not quite understand the significance of the question of the representative of the United States. Article 39 of the Statute, in Part X, is a necessary provision, because Togoland became autonomous. The autonomous Republic of Togoland has, at present, powers which formerly devolved on the Administering Authority. If the Statute resulting from the Decree of 24 August 1956 were to be applied in full, the Administering Authority would be in no position to fulfil, with respect to the United Nations, such obligations as are placed upon it by the International Trusteeship System and by the Trusteeship Agreement of 1946. Therefore, transitional provisions were necessary to suspend, in a provisional way -- and Part X is specifically entitled "Transitional provisions" -- the implementation of some of the provisions of the Statute, and to reserve, for a certain period of time, such powers and obligations as would belong to the Government of the autonomous Republic, in order to leave them with the Administering Authority, and to allow the Administering Authority to discharge its obligations. From the time when the

nk/10

T/PV.747  
44-45

(Mr. Barques, France)

autonomy of Togoland becomes a reality, that is, when the Administering Authority will no longer be discharging its obligations as Administering Authority, the transitional provisions will disappear.

What we call provisional trusteeship is very provisional, a short-term activity. This is because it will be impossible for France to fulfil its obligations as Administering Authority if other provisions of the Statute, articles 1 to 38, are fully implemented. It is provided that when an international instrument formally ends the Trusteeship System, the provisions of Articles 1 to 38 will be fully implemented, without restrictions or reservations, and provisional trusteeship will naturally disappear.

Did I answer the question of my colleague? I did not understand it very clearly, but I hope I have answered it to his satisfaction.

Mr. SEARS (United States of America): To answer the question of the representative of France, I think he did. I was just puzzled by the remark that he made the other day when he spoke about the inability of the Administering Authority to continue to fulfil its obligations under the Trusteeship Agreement. I take it from what he said that article 39 will remain in force until such time as there is a complete agreement between the General Assembly and the French Government as to the final termination of the Agreement.

My final question is this. Is it the view of the Administering Authority that the new Statute gives the Territory full self-government now, or only that it provides for such full self-government later? If it is the latter, would there be any difficulty in continuing the Trusteeship Agreement, perhaps in modified form, until full self-government is attained?

Mr. BARGUES (France) (interpretation from French): We should try to understand what words mean. I think that Togoland agrees that, when provisional trusteeship is terminated, it would have full self-government. The difference between self-government and independence should be understood. When the provisions and obligations that still remain with France are eventually transferred, Togoland will at that time be independent and there can then be no trusteeship of Togoland either by France or by the United Nations. However, for the time being, it is an autonomous republic. I do not know what my colleague means by full or partial self-government. The fact is that Togoland is an autonomous

republic. The representative of this autonomous republic's government confirmed this to us a few moments ago. It is, therefore, autonomous, as I stated in my previous answer. This autonomy can be freely and fully exercised only when France no longer discharges some powers and obligations flowing from the Trusteeship Agreement. The autonomous Republic of Togoland fully accepts this provisional regime but I must say, quite honestly, that it would be impossible, at least for France, to maintain this regime beyond a certain term because it puts the autonomous Republic of Togoland in the impossible position of not having the full benefit of its autonomy, in accordance with the full implementation without reservations of the Statute which you have before you. At present, if we do away with provisional measures, what would be the obligations of France as Administering Authority? What would Togoland be justified in expecting? National defence, external security, foreign relations and some acts dealing with international trade and so on. France would therefore have the power to supervise within those fields activities of the Togolese Government and its Legislative Assembly.

France will be in a position to address a report to the United Nations to certify that the relations of Togoland with foreign States and external security -- external only, because internal security belongs to the Togolese Government -- are normal. France will have authority to state that external security has been guaranteed by French forces. It may give information on the exchanges between Togoland as part of the franc zone with countries of foreign currencies, sterling and dollar and so on. But if the United Nations asks France to give information on hospitals or progress in education or in cocoa crops, France will be in a very difficult position. It will not be in a position to ask the Government of Togoland to relinquish some of its powers, to transfer them again by a movement contrary to the one which is being formed now, and give them back to France. France will be in a very difficult position if Togoland's Government refuses some information while the United Nations continues to consider France as its administering Power and might wish to ask that information from France.

Mr. SEARS (United States of America): I will try not to belabour this matter and I do thank the representative of France for his answers. I see for the first time some of the problems which he has been referring to in his statements. The following is my last question.

First of all, my delegation is full of admiration for the progress of events in the Republic of Togoland and I hope to have more to say about that at a later date. If, for example, the General Assembly were to grant termination of the Trusteeship Agreement tomorrow, let us say, would the French Government consider that the Republic of Togoland was fully self-governing within the meaning of the Trusteeship System, under article 76 b?

Mr. BARGUES (France)(interpretation from French): Yes, Mr. President.

Mr. SEARS (United States of America): I thank the representative of France very much.

Mr. LOONES (Australia): I find myself in a similar situation to that of the New Zealand representative, not yet having had time to consider this lengthy report which was placed on our table this morning, and I would like at some future date, after I have considered it, to submit some further questions.

At the moment I have only two questions and they relate to the powers of the Togoland Assembly in regard to the powers of the central organs of the French Republic. I observe that in the memorandum submitted by the Government of France (T/1290) it is stated on page 6 that "... matters which relate essentially to defence, external relations and the Republic of Togoland's membership of the franc zone, the population, which is now granted Togoland citizenship, continues to be represented in the French Parliament and in the Assembly of the French Union." Also, article 3 of the Statute itself states that the French Republic shall be responsible for defence and foreign relations. Now in Part V of the Statute, article 26, a list is given of certain matters in which the central organs of the French Republic shall have powers of legislation and regulation. That includes, amongst other things, such matters as the system of public



freedoms and the protection of their exercise, and curricula and examinations in secondary and higher public educational establishments. My question is whether the powers given to the French Republic under this article are concurrent powers, that is, are they to be exercised concurrently by the French Republic at the same time as they are exercised, or can be exercised, by the Togoland Assembly, or are they, as it were, exclusive powers?

Mr. BARGUES (France) (interpretation from French): Mr. President, it cannot be denied that in these matters, which are enumerated here restrictively, the Legislative Assembly of Togoland has a right to intervene; it has the right to express its wishes, its voeux. I would like to point out that the Territorial Assembly, which existed under the preceding Statute had, in these matters, within certain limits, a right of deliberation. It would be difficult to imagine that the present Legislative Assembly would have lesser powers than the previous Assembly. But the truth is that the over-all provisions concerning, essentially, foreign relations, defence -- not internal security, but defence -- and the question of the franc zone, and so forth, will depend upon laws which are voted upon by the French Parliament.

That is the reason why, upon the express request of the representatives of Togoland, the representation of the population of Togoland in the French Parliament has been maintained under the new Statute. It would be abnormal and unjust if the laws voted upon by a Parliament and applicable to a certain country were not voted upon as well by representatives of the said country.

As was mentioned by the Finance Minister of the autonomous Republic of Togoland, the elaboration of this Statute was discussed with representatives of Togoland and they had considerable influence in the drafting of this Statute, as well as in the vote of the loi-cadre. They will continue to bring the benefit of their competence and the force of their intervention and their vote to the French Parliament when various general provisions are being deliberated which are applicable to Togoland, under the terms of this Statute. This is not abnormal because it is due to French constitutional concepts. I mentioned the Parliament, the National Assembly and the Conseil de la République. The representation of Togoland in the French National Assembly is normal and obligatory because there are problems to be dealt with by the Assembly which concern French Union territories; all of these problems are discussed there. That is why totally independent countries which are represented at the United Nations such as Cambodia and Laos also have representatives in the French National Assembly at Paris.

In this latter case, you have the representatives of two countries associated with the French Republic, or simply members of the French Union, and they are completely independent; nevertheless they are represented at Paris in the Assembly.

Mr. LOOMES (Australia): The only other question relates to the services in Togoland referred to in article 27 of the Statute. I notice that these cover such matters as services of safety and general security, inspectorate of labour and social legislation, aviation, etc. I also observe that article 37 of the Statute refers to plans for the recruitment of staff and the orientation of students with a view to accelerating the entry of Togoland officials into the services of the French Republic listed in article 27.

My question is whether what is envisaged by article 37 is that eventually all, or at least a number, of the services referred to in article 27 will be placed in the hands of Togoland officials.

Mr. BARGUES (France) (interpretation from French): - That is correct. The services enumerated in article 27 are services of the French Republic and these are services which are given to France under the Statute; namely, the services of safety and general security, and so forth. There are also certain services concerning citizens of the French Republic, namely the administration of justice under French law. We also have services which require general co-ordination for all countries in the French Union, the expenses for which must be borne by the French budget, for example customs control and aviation infrastructure.

Now these are services of the French Republic. If no provision had been made for these, they would have to be directed, and provided, by citizens of the French Republic. But the French Government and the Togoland Government thought that it was advisable to associate the people of Togoland in the management of these services. That is why, as was pointed out by the representative of Australia, a provision of this Statute envisages the participation of officials of Togoland in certain services of the French Republic, and this participation could only result from an agreement between the French Republic and the Republic of Togoland.

Therefore, we have an explicit provision for this, particularly with regard to the recruitment of staff and the orientation of students wishing to serve in the services of the French Republic.

Mr. LOMES (Australia): I have no further questions at the moment. I would like to reserve the right if necessary to ask some further questions after I have had an opportunity of considering the statements made this morning and the reports which have just come into our hands.

The PRESIDENT: Are there any other questions? If not, our next scheduled meeting will be tomorrow morning at 10.30, at which time the Council will hear statements from members who wish to speak at that time. I think that during the next few hours the members will have had an opportunity to study the report and we will be able to take some action at our meeting tomorrow.

The meeting rose at 12.30 p.m.