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President: Mr. Lester B. PEARSON (Canada).

Korea. Reports of the United Nations Commission for the Unification of Korea: cablegram dated 31 March 1953 from the Premier of the Government Administration Council and Minister for Foreign Affairs of the Central People's Government of the People's Republic of China to the President of the General Assembly (A/2378)

[Agenda item 16 (a)]

1. The PRESIDENT: Before we continue our discussion of the agenda item before us the Assembly may be interested to know that I have circulated to delegations a copy of a telegram dated 31 March 1953 which, as President of the General Assembly, I received this morning from the Premier of the Government Administration Council and Minister for Foreign Affairs of the People's Republic of China.

2. The message, the text of which is reproduced in document A/2378, contains certain new proposals for solving the prisoner-of-war problem in Korea, which is the last obstacle, we hope, in the way of an armistice in that country. I have referred these proposals to the representative of the United States of America for transmission to the Unified Command.

3. I can only express at this time the hope, which I know all members of the Assembly share, that an armistice and peace may soon be brought to Korea and the fighting ended in that unhappy land. The General Assembly will, I know, be anxious to continue to do everything it can to achieve that end.

Report of the Secretary-General on personnel policy (A/2364) (*continued*)

[Agenda item 75]

4. Mr. BIRECKI (Poland) (*translated from French*): The duties and rights of the Secretary-General and the staff of the United Nations Secretariat are clearly defined in Article 100 of the Charter, which reads in part as follows:

"In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization."

5. Strict application of Articles 100 and 101, which establish the criteria whereby the Secretary-General should recruit the staff of the Secretariat, and of Article 105, on privileges and immunities for the staff, is essential if the employees are to carry out their duties in complete independence, and in the interests of the United Nations as an international organization.

6. These principles, which lay down personnel policy, have not been observed by Mr. Lie. He has pursued with regard to the staff an unjustifiable policy which is contrary to the principles of the above-mentioned Articles of the Charter. This policy of Mr. Lie's has placed the United Nations Secretariat in a position which is not compatible with its functions as the administration of an international organization.

7. Mr. Lie's unjustifiable policy, which is contrary to the Charter, has created an unhealthy atmosphere, which has hindered the smooth operation of the Secretariat. This situation has caused alarm in many countries, as may be seen from many articles which have appeared in the Press, from the statements of representatives during this seventh session of the General Assembly and from the comments of eminent experts in international law.

8. I shall quote only two of the many articles on Mr. Lie's personnel policy which have appeared in the world Press.

9. The French weekly paper *L'Observateur* of 6 November 1952 described the atmosphere created by this policy in the Secretariat as follows:

"Fear prevails in the United Nations Secretariat. A general feeling of insecurity has overcome the staff; they are afraid to have any contacts with delegates or representatives described as liberal, progressive or communist; they are afraid to protest against injustice, to defend their colleagues, to play an active part in the Staff Association or to uphold its actions; on the other hand, secession from the Association and denunciation of the 'progressives' or 'subversives' is becoming a sure way of obtaining self-advancement and of entering into the good graces of the Administration. The moral level is thus constantly deteriorating and, if the process continues, conformism and mediocrity will soon characterize this great administration".

10. The British newspaper *Manchester Guardian Weekly* of 4 December 1952 stated that the atmosphere prevailing in the Secretariat as the result of Mr. Lie's personnel policy was unhealthy and asked the fully justified question: "How can an international civil service work properly if it is being hunted?"

11. During the debates in the Fifth Committee, many representatives expressed their uneasiness about Mr. Lie's personnel policy. Confronted by this general uneasiness, Mr. Lie was no longer able to by-pass the Assembly, which is the only body competent to consider such questions and to make the necessary recommendations on them. The present discussion is therefore due to the widespread criticism of the situation in the Secretariat. Mr. Lie has tried to justify his unjustifiable policy in the report he has submitted to the General Assembly [A/2364]. That was also the purpose of his explanations to the General Assembly on 10 March [413th meeting].

12. From the outset of the debates on this subject, it has been evident that Mr. Lie's unfounded assertions that he has complied with the Charter have not succeeded in dissipating the reservations, fears and doubts of representatives. These reservations have been apparent in many statements and I should like to quote a few of them. The Belgian representative noted [416th meeting] that:

"What we hear in the delegations confirms that the Secretariat staff is demoralized and that this demoralization is highly prejudicial to the proper functioning of the international civil service and to the interests of the United Nations with which this discussion is concerned" [para. 154].

13. The Norwegian representative said [416th meeting]:

"Events in the recent past have caused apprehension that the integrity of the Secretariat may have been endangered. Apprehension has also persisted because of uncertainty as to the motives underlying the investigations of staff members of the Secretariat and the principles which have determined the policy of the Secretary-General towards the staff members who have been the subjects of investigations" [para. 191].

Speaking of Mr. Lie's methods, the Norwegian representative added:

"... it is nevertheless difficult to avoid certain misgivings as to some of the methods used for achieving this purpose. These methods have made prevalent among some members of the Secretariat a feeling of anxiety and insecurity which has not been confined solely to those who have been the subjects of investigation" [para. 192].

14. Other subsequent statements might be quoted. The ones I have just quoted are perhaps cautious, too cautious, especially when they are compared with the harmful results of Mr. Lie's personnel policy. Yet it is worth noting whence they come. The fact that these delegations have criticized Mr. Lie's policy proves that he has gone too far for his policy, which is harmful to the interest of the United Nations, to be defended or even ignored.

15. As is well known, Mr. Lie's policy of compromising the independence of the Secretariat has consisted, in particular, in the illegal and unjustified dismissal of Secretariat employees. Last year, approximately 200 persons were dismissed; many other dismissals have been announced since. The purpose of this action was to remove from the Secretariat any elements which might prevent the realization of Mr. Lie's plans and to create among the other members of the staff an atmosphere of fear and uncertainty about the morrow.

16. It is also well known that Mr. Lie has tried to break the Staff Association. His efforts to break the Council of the Association, elected by the staff, are very characteristic. Thus, as early as the end of 1950, three members of the Staff Committee, including the Chairman and the Secretary, were dismissed. In the annual report of the Staff Association for 1950, Mr. Lie was officially accused of trying to break the Staff Association of the Secretariat (a practice called "union busting" here in the United States).

17. The dismissed employees appealed to the United Nations Administrative Tribunal which, in several cases, acknowledged that their dismissal was illegal and completely unfounded and awarded them substantial compensation. The Administrative Tribunal also stated in its judgment of November 1951 that Mr. Lie's failure to adduce a reason for non-renewal of the employee's contract was contrary to the applicant's right of association. This is what happened in the United Nations Secretariat.

18. As the many subsequent illegal dismissals prove, the Tribunal's judgment has not been taken into consideration. Practices affecting the Secretariat members' independence, which is guaranteed by the Charter,

continued and an unhealthy atmosphere was thus created in the Secretariat.

19. Mr. Lie's policy constitutes a threat to the independence of the United Nations Secretariat and tends to make the international Secretariat a national secretariat of what is called the "host country".

20. When he saw that his policy did not please many delegations and was giving rise to serious objections, Mr. Lie resorted to a special manoeuvre in order to save appearances. As others have pointed out, this manoeuvre consisted in setting up a committee of three jurists, who were to help him to pursue his policy. This was done in spite of the fact that the fundamental principles of personnel policy and the rights and duties of members of the Secretariat are clearly defined in the Charter. They are clearly defined in Articles 100, 101 and 105. If there were any doubts about the principles by which the Secretariat should abide, they should have been referred to the United Nations organs competent to watch over the work of the Organization as a whole.

21. Nevertheless, Mr. Lie by-passed the General Assembly, which was in session at the time, and by-passed the other organs of the United Nations; instead of resorting to the legal authorities, he set up an illegal body.

22. It was an arbitrary action and contrary to the principles of the United Nations to apply to a group of private persons, who were, moreover, unknown, for an interpretation of the Charter and then to try to impose their Opinion, in order to refer to it for further infringements of the elementary rights of Secretariat members.

23. It has already been stated here what Professor Rolin, an international law expert, among others, thought of the competence of the three jurists who were chosen. In his statement before the Belgian Senate on 20 January 1953, Professor Rolin stated that none of the three jurists was competent in international law. It is indeed surprising that Mr. Lie should have chosen these particular unqualified persons. The circumstances of the case are very characteristic: a person illegally carrying out the functions of Secretary-General establishes an illegal committee, consisting of persons of doubtful competence.

24. In the circumstances, it is not surprising that the three jurists should have reached conclusions absolutely contrary to the elementary principles which ensure the full independence of United Nations personnel.

25. A group of Canadian jurists gave their views on the report of Mr. Lie's experts in *The New York Times* of 1 March 1953, and noted that the "recommendations amount to an almost complete surrender of independent standards of judgment by the United Nations whenever they differ from those of the host country".

26. Thus the theory of the "host country" was created. The purpose of this theory was to legalize the violation of the principles of the Charter with regard to personnel policy. It has given rise to the reservations expressed by certain delegations, especially the Indian delegation. The nature and purposes of this theory of the "host

country", created to justify the situation prevailing at United Nations Headquarters, are unmasked by the fact that similar action is being taken in the specialized agencies with headquarters outside the United States. Does the application of this theory of the "host country" to the United Nations Educational, Scientific and Cultural Organization, whose headquarters is in Paris, and to other specialized agencies with headquarters at Geneva or Rome, mean that the United States is the "host country" in France, Switzerland or Italy?

27. The monthly review *Swiss Review of World Affairs* of March 1953 contains the following statement on the "theory" of the "host country":

"On January 26, Henry Cabot Lodge, the new head of the American delegation to the United Nations, ordered investigations to be conducted by the FBI. American employees had to have their fingerprints taken and to fill out questionnaires. Mr. Lie gave his approval to this procedure. . . . The same procedures were then applied to Americans employed by branch offices of UN outside the United States. The idea of the 'protection of the host country' thus seems to have moved to the background".

28. Mr. Lie's action constitutes a flagrant violation of the international character of the Secretariat, of the independence of his staff and of the elementary loyalty of employees to an international organization. It deprives the staff of the protection which is essential to the performance of their duties. Embarrassing officials are dismissed from the Secretariat, the Federal Bureau of Investigation is allowed to work in the extra-territorial Headquarters of the United Nations, staff members' files are made available to the security service and the establishment of listening-posts is authorized.

29. In order to carry out his harmful policy against the staff and to dismiss employees, Mr. Lie uses what may be called the method of unfounded denunciation, insinuations and vague accusation. An example of it may be found in Mr. Lie's report itself [A/2364]. I shall quote from this report; it is very characteristic of the atmosphere prevailing with regard to the problem of dismissal: ". . . another witness never connected with the United Nations gave testimony to the effect that in 1937 he had been informed by an espionage agent of a foreign country" that a man he believed to be the same as this staff member . . . [A/2364, annex III, section II]. It was on the basis of statements of this kind that a staff member of the Secretariat was persecuted and forced to resign. By similar methods, one way or another, a number of other employees were got rid of.

30. The attitude Mr. Lie has imposed on Secretariat members is contrary to the oath to which every official subscribes and which reads:

"I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the Organization".

31. Is there any need to emphasize that this oath is binding on all members of the Secretariat without exception?

32. The Polish delegation considers that Mr. Lie's practices must be stopped, in order to enable United Nations employees to discharge their duties properly. There must be created in the United Nations Secretariat an atmosphere propitious to the performance, in complete independence, of the tasks incumbent on an international organization. Articles 100, 101 and 105 of the Charter should be strictly observed. Only the application of the principles on personnel policy contained in the Charter can ensure the creation of a Secretariat capable of carrying out the tasks of the United Nations and of enabling it to perform its functions in the interests of all the Member States.

33. General ROMULO (Philippines): The quality of earnest thought and searching inquiry which has characterized the discussion of the present item bears witness not only to the deep sense of responsibility of the General Assembly, but also to the far-reaching importance of the issues involved. This is a question which touches the very bone and sinew of the Organization, and its outcome may well determine for a long time to come the effectiveness of the United Nations as a functioning organism.

34. Dedicated to the pursuit of the highest ideals of humanity, the United Nations now suddenly discovers, as it were, that it has a physical body which we are apt to take for granted so long as it is healthy, but which can become a source of grave embarrassment when it is sick. That physical body is the international Secretariat headed by the Secretary-General.

35. The Secretary-General is justly proud of the loyalty, competence, efficiency and integrity of the staff of the Secretariat. To have recruited such a staff within a brief period of seven years is a monumental achievement for which the Secretary-General himself must be given full credit. The General Assembly can do no less than express its whole-hearted concurrence in this appraisal of the calibre of the Secretariat, and that appraisal must stand regardless of generalized disparagements based on a few isolated exceptions.

36. During the last few months, however, a truly disabling *malaise* has overtaken the Secretariat. The dismissal by the Secretary-General of staff members of United States nationality, for reasons which he gives in his report, has inevitably had a demoralizing influence on the rest of the Secretariat and has greatly disturbed the governments of all Member States.

37. No one is, of course, more keenly aware of these developments than the Secretary-General himself. As Chairman of the Fifth Committee of the General Assembly at its seventh session, at which certain representatives had expressed the desire to discuss the opinion of the Commission of Jurists, I can testify to the desire of the Secretary-General to present to the Member States as early as possible a comprehensive report on personnel policy. This intention of the Secretary-General I conveyed to the members of the Fifth Committee. Subsequently, he took the necessary steps to place the matter on the agenda of the present session.

38. That report [A/2364] is now before us. It has been submitted to us because, as the Secretary-General

said in his statement to the General Assembly on 10 March [413th meeting], he believes it proper for the General Assembly to consider the situation and to review the position of the Secretariat as a whole. For my part, I believe that we have the more immediate practical objective of setting at rest the understandable anxiety of the Secretariat and of preventing a further decline in morale which can only result in the general deterioration of the work of the United Nations as a whole.

39. Already the character of the discussion that has taken place in the General Assembly has brought us nearer to the realization of this immediate practical objective. The ventilation of views on the report of the Secretary-General has, for the most part, been characterized by a genuine concern for justice as well as for the larger interests of our Organization. There can be no question that, when this debate is over, the overwhelming majority of the governments of Member States will have shown themselves to be deeply attached to the principle of maintaining an international, independent Secretariat as an indispensable condition for the effective functioning of the Organization. The Secretary-General and the thousands of men and women who work under his direction can have every confidence that in the General Assembly they have a sympathetic and watchful guardian of their rights and interests.

40. But apart from the salutary effect which our discussion is bound to have, it would be rash indeed for anyone to come to any definitive answers to the questions that have been raised or to come to any final conclusions from the facts and arguments that are adduced in the documents before us. No exegesis upon the relevant articles of the Charter of the United Nations or the provisions of the Staff Regulations, and no analysis of the Opinion of the Commission of Jurists [A/2364, annex III] and of the Secretary-General's report, however minutely and earnestly undertaken can warrant the making at this time of long-term and far-reaching decisions by the General Assembly concerning personnel policy.

41. It is enough to review briefly the developments that have taken place, to show why policy decisions by the General Assembly at this time would be both impractical and unwise. In accordance with Article 101 of the Charter, the Secretary-General has sole authority to appoint the staff under regulations established by the General Assembly. In the recruitment of the staff, however, it was natural that he should seek the co-operation of Member States. This was particularly necessary in the case of the United States of America, in which for obvious reasons, a large percentage of the personnel would be recruited. In the beginning, however, or as early as 1946, the then Secretary of State of the United States, out of a well-meaning if perhaps too literal interpretation of Article 100 of the Charter, let it be known that the United States Government did not wish to recommend United States citizens for employment or give official support or clearance to applicants and staff members.

The recruitment of United States citizens nevertheless had to continue. Desiring to have assistance in obtaining adequate information about United States citizens on his staff, the Secretary-General finally succeeded in 1948 in establishing a procedure whereby the names of present or prospective United States

employees were submitted to the United States Mission for evaluation.

43. As regards this procedure, there is no doubt whatever that the Secretary-General was, and is, fully within his rights in seeking assistance from outside sources in order to obtain reliable information about the members of his staff. As he has sole authority to appoint the staff, so has he the sole responsibility for ensuring the efficiency and integrity of the Secretariat, in particular, for ensuring that no staff member is engaged in subversive activity against any State Member of the United Nations.

44. Whatever the evaluation thus submitted by the United States Mission—and we are told that adverse evaluations were never accompanied by security evidence or information on which the evaluations were based—it rested entirely with the Secretary-General to make the final decision on the basis of a further examination of each case. In other words, his decision in each case became strictly a matter between him and his conscience, a question solely of his personal judgment.

45. The dismissal of staff members of United States nationality who refused to answer certain questions before a federal grand jury and a Senate sub-committee involves essentially the same principle of judgment and conscience. He dismissed the temporary employees who had refused to answer certain questions on the ground of possible self-incrimination. Subsequently, on the basis of the opinion of the Commission of Jurists, he dismissed the others who also had refused to answer, having first given them the opportunity to change their minds. Having asked for advice, and having himself created the machinery for securing such advice, it rested with the Secretary-General to accept or reject the opinion of the Commission of Jurists when it was rendered. As it happened, he accepted the conclusions and recommendations of the jurists relative to the five specific questions he had asked, although he did authorize me, as Chairman of the Fifth Committee, to inform the Committee that he "did not bind himself to every argument or every single word contained in the opinion".

46. Meanwhile, the cases of the dismissed employees are pending before the Administrative Tribunal.

47. These are the essential facts of the situation. Prudence would seem to dictate that we should not attempt, at this stage, to do much more than reiterate the principles on which an appropriate personnel policy should be based, provide for a more careful study of the present report or for the submission of a further report, as may be necessary, together with recommendations for subsequent action by the General Assembly, as may be required.

48. A thorough study should certainly be made of two questions which have repeatedly been raised during this discussion. I refer to the question of the automatic dismissal of a staff member who refuses to answer certain questions before appropriate authorities of the United States Government on the ground of possible self-incrimination, and the question of the dismissal of a staff member when there is "reasonable ground for believing that he is likely to engage in subversive activities against the government of any Member State". It should be noted that the statement on personnel

policy approved by the Staff Council of the Secretariat [A/2367], while endorsing, in general, the principles outlined in the report of the Secretary-General, raises doubt as to the validity of these two assumptions or concepts. A more thorough and rigorous analysis of them would certainly be justified.

49. Having given expression to these views on the need for further study, I should like, on behalf of the Philippine delegation, to set forth what we consider to be the basic elements of a sound personnel policy for the United Nations.

50. First, we uphold the principle which guarantees the international character and independence of the Secretariat. This principle can only be maintained if the Secretary-General and the staff rigorously observe their independence from national governments as such and if, on the other hand, Member States undertake to respect the independent status of personnel and do not seek to influence them in the discharge of their responsibilities.

51. Secondly, we consider that the principle of the independence of the Secretariat has two counterbalancing elements, namely, their protection from interference by governments in the discharge of their responsibilities, and conversely, the assurance that they shall not perform any act which is incompatible with their status as international civil servants.

52. Thirdly, we support the concept of a career service for the Secretariat based on the merit system, security of tenure and adequate provision for pension and retirement.

53. Fourthly, we recognize the supreme authority of the Secretary-General as chief administrative officer of the Organization on matters relating to the appointment and termination of appointment of personnel, exercised in accordance with the provisions of the Charter and the general guiding principles established by the General Assembly.

54. Fifthly, we believe in the maintenance of such procedures as already exist or as may be necessary in the future to ensure that staff members shall be effectively protected against unfair or arbitrary treatment of any kind—in particular, procedures which assure them a fair hearing, the right of appeal and redress of grievances.

55. Sixthly, we recognize that while United Nations personnel have an obligation to refrain from any activity aimed at subverting or overthrowing the government of any Member State, that obligation requires incalculably greater weight and importance in relation to the government of the country which is the host country of the United Nations.

56. The force of the last-named principle will become instantly clear the moment we try to imagine what our respective governments would feel on the question of personnel policy if the principal United Nations headquarters were located in Moscow, New Delhi, Wellington, Havana, Cairo or Manila. This simple feat of imagination will at once reveal the hard fact that in actual practice the high objective of an international career civil service must be realized in the context of national public opinion, fears and idiosyncracies and, for the present at least, with due regard to the existing tensions in the world. Not to recognize

these facts of international life at present would be to think of the United Nations in terms of a disembodied spirit, without anchorage in time and place. But because the United Nations must be and is located within the territory of a Member State, because the United Nations is not a super-government exercising sovereignty of its own, because in the words of the head of the New Zealand delegation, "the founders of the United Nations did not ask or obtain for the Organization any supra-national rights" [416th meeting, para. 34], we are bound to accept certain limitations of principle, with perhaps a certain incongruity between reality and the ideal.

57. It is because we recognize the difficulties inherent in the situation that the Philippine delegation has decided to support the draft resolution proposed by the thirteen Powers [A/L.146/Rev.1]. The proposal recalls the pertinent provisions of the Charter, states that the Assembly has reviewed and considered, without necessarily adopting or approving, the report of the Secretary-General, and requests the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions, in consultation with the specialized agencies, to report further on the personnel policy and to make recommendations for further action by the General Assembly, as may be necessary.

58. My delegation interprets the draft resolution as signifying that the General Assembly endorses the present personnel policy so far as it is compatible with the relevant provisions of the Charter, and where this compatibility may not be entirely clear it makes provision for further study and for final decision at a later date. The advantages of the proposal are obvious. It re-emphasizes basic principles, it prevents the danger of virtual administrative paralysis pending further study and it safeguards the position of those delegations that may have reservations about the decisions already taken by the Secretary-General.

59. I shall conclude this statement with two brief quotations, one from the statement made by the representative of the United States at the 416th meeting and the other from the report of the Secretary-General.

60. Mr. Lodge said:

"In summary, the position of the United States is this. We do not believe that persons who are engaged or who, on the basis of their past and present record, seem likely to engage in subversive activities against any Member State should be employed in an international organization. We shall do all in our power to provide the Secretary-General with the information necessary to enable him to make a determination on this matter. This does not constitute, nor is it intended to constitute, dictation to the Secretary-General or to the governments of other Member States. It is a service to the United Nations in the interest of maintaining a Secretariat which measures up to a standard established in the Charter for international civil servants" [para. 27].

61. Paragraph 8 of the Secretary-General's report reads as follows:

"The United Nations does not—and obviously cannot—have an investigation agency comparable to those at the disposal of national governments. Therefore, the United Nations must depend upon the governments of Members for assistance in checking

the character and record of staff members. The Secretary-General has had this assistance from many governments, but he has always reserved, and must always reserve, to himself the final decision on the basis of all the facts."

62. It is, of course, heartening to have this assurance from the representative of the United States on behalf of the host country. But what these two statements prove is that the authority of the Secretary-General is not only considerable but decisive and that the solution of the problem before us must ultimately lie in the firm and judicious assertion of that authority in defence of the loyalty, competence and integrity of the Secretariat against undue pressure or attack from any source whatever.

63. Mr. PEREZ PEREZ (Venezuela) (*translated from Spanish*): The delegation of Venezuela has pleasure in recognizing the deep sense of responsibility with which the Secretary-General has acted in submitting the question of personnel policy to the Assembly for its consideration on his own initiative. My delegation has very carefully studied the report [A/2364] he presented and the statement he made when he introduced it from this rostrum on 10 March [413th meeting].

64. In his statement the Secretary-General acted with commendable frankness and integrity, in informing us, without concealing anything or beating about the bush, of the real causes of the difficult situation in which he has found himself for some time. Much of what he said was of course not a secret to many of us. When he submitted his resignation during the first part of the present session, the Assembly was aware of the serious reasons which had led him to take that step. Through the Press, we have also all followed the developments in the difficult situation which has been created for him by the charges against United States staff members. The real importance of his statement of 10 March, however, lies in the fact that it gave us a complete picture of his difficulties and an exact explanation of his reasons, the whole statement being marked by deep sincerity and feeling.

65. When I referred in my opening remarks to the deep sense of responsibility shown by the Secretary-General in submitting this question to the Assembly, I wished to emphasize that he had acted entirely on his own initiative. Nothing obliged him to take the step he did. The Assembly had not asked him for any report on the matter, and no proposal that it should be studied was before the Assembly. The only possible antecedent was the discussion in the Fifth Committee last December [374th meeting] of the possibility of debating the Opinion of the Commission of Jurists [A/2364, annex III], which the Chairman of the Fifth Committee ruled could not be taken up as it was not covered by any of the items on the Committee's agenda.

66. Conscious of his responsibility, the Secretary-General fully realized that the matter must be laid before the Assembly. A great stir had been raised by the investigations of United States staff members; the prestige of the United Nations was being undermined in the columns of certain newspapers; the morale of the Secretariat seemed to be severely shaken. All these things were bound to influence the Secretary-

General considerably in his decision to take this step. Nevertheless, there is no reason to consider Mr. Trygve Lie's action as that of a person seeking justification for something he has done because he is not certain that he acted properly. Far from being of that opinion, my delegation considers that Mr. Lie has come to the Assembly in search of guidance and support for the future on the basis of decisions which he had felt himself bound to take, so that when he has to take such decisions again the Assembly will be aware of the reasons on which they are based.

67. There is another fact which deserves mention: when in his statement on 10 March Mr. Trygve Lie requested the guidance and support of the Assembly for the Secretary-General, the question of electing a successor, owing to his resignation, was already on the agenda of the Assembly and the Security Council, and his replacement was regarded as certain. Consequently, Mr. Lie's request was not put forward on his own behalf, but on behalf of the new Secretary-General, whoever he might be. The problem thus ceases to be a personal one and in dealing with it the Assembly should concern itself with the future rather than with the past.

68. My delegation agrees with the Secretary-General that the difficulties he has encountered in discharging his duties are largely due to the increasingly serious political differences which have divided the world since the United Nations came into being. These difficulties have affected every aspect of the Secretary-General's work, in particular his efforts to equip the Organization with a competent and responsible Secretariat. Unfortunately, it is not within the Assembly's power to remedy all these difficulties. Respect on the part of Member States for the Secretary-General's independence, as prescribed by the Charter; better understanding of his responsibilities by public opinion in the host country of the United Nations Headquarters; unwavering determination on the part of the members of the Secretariat to act strictly in accordance with their status as international civil servants—all this would doubtless help much more to improve the situation which we seek to remedy than any decisions the Assembly may make in the matter. This has been recognized by the Secretary-General, who told us, in his statement of 10 March, that he did not think it necessary to change the existing Staff Regulations.

69. The Secretary-General no doubt took this view because he believes that the Charter and the Staff Regulations give him sufficient powers satisfactorily to discharge his responsibility for the establishment and maintenance of an international civil service in the service of the Organization. In my delegation's opinion this is true in principle; nevertheless there is obviously something wrong or missing in the complex machinery of the Secretariat since otherwise the Assembly would not at this juncture be devoting so much of its valuable time to consideration of the present staff situation, with all the attention due to the most delicate problems.

70. If, after careful consideration, the Assembly decides that it is necessary to issue new regulations or amend the present ones, it should not hesitate to do so. It is of the greatest importance to the Organization that the Secretary-General's freedom to act

within the limits of his competence should not be impaired, especially in the matter of the selection and retention of staff, in which his responsibility is exclusive. It must not be forgotten, however, that in this respect Article 101 of the Charter provides that the Secretary-General shall act in accordance with regulations established by the General Assembly. To illustrate the position my delegation takes in this matter, I shall mention the case of a new regulation which might be adopted by the Assembly. As you know the Secretary-General has already set up, on the recommendation of the Commission of Jurists, an Advisory Panel of five members to assist him in difficult personnel problems. The step is commendable, and the Secretary-General has taken it in complete accordance with his administrative powers, in a field where his responsibilities are exclusive. But would it not perhaps be better if the rules for the establishment, appointment and functions of the Panel were contained in a new regulation issued by the Assembly? If that were done, the Panel would undoubtedly, in the eyes of the public, and—what is more important—in the eyes of the Secretariat, have the whole weight of the Assembly's authority behind it. Furthermore, when the Secretary-General acted on the advice of the Panel, his decisions would involve less responsibility and be less open to criticism.

71. Although this matter has been laid before the Assembly in order to inform it of something that has already happened, my delegation believes that the present discussions should have a more constructive purpose. We should attempt to ensure that the Organization has a Secretariat with, to quote the Charter, the "highest standards of efficiency, competence and integrity", and, as a counterpart, assure the staff that their rights as loyal servants of the Organization are full guaranteed and that any charge against any of them will be the subject of an investigation conducted under the fullest safeguards. At the same time, however, the Member States must have the assurance that staff members will absolutely refrain from any subversive activities against them. That, in my delegation's view, is the real significance of the present discussion. The recent events with which we are all familiar are only one factor in the general situation and are merely the immediate reason for discussing a much broader problem.

72. My delegation accordingly believes that the question cannot be fully considered by the Assembly at this session. In other words, I feel that the matter should be studied more fully and in greater detail after the conclusion of the present session so that the Assembly can, if possible, take such decisions as it may deem appropriate at its next session.

73. The title of the Secretary-General's report gives the impression that it deals with personnel policy as a whole but in fact its main purpose was to bring to the knowledge of the Assembly the problem of alleged subversive activities by certain United States staff members. This is why a substantial part of the report is taken up by the Opinion of the Commission of Jurists appointed by the Secretary-General to advise on certain aspects of that problem. This also explains the limited scope of the jurists' findings since they merely considered the matter in the form in which it had been submitted to them, that is to say, primarily from the point of view of subversive activities against

the government of the country in which the Organization has its headquarters.

74. My delegation proposes to refrain from commenting on the opinion at this stage, pending, as I said earlier, later discussion of the whole problem by the Assembly, with fuller information and with a view to the adoption of final decisions. I should like, however, to refer briefly to the question of subversive activities, which is considered at length in the jurists' Opinion.

75. Plainly, subversive activities by a staff member must be a matter of immediate and active concern to the Secretary-General in order to secure the cessation of such activities and impose the appropriate penalty, whatever the Member State against which they are directed, whether or not it is the country in which the Organization has its headquarters. As the Member States have undertaken to respect the Secretary-General's independence and recognize that he is responsible solely to the Assembly in matters relating to the selection and retention of the staff under his charge they in turn must naturally have an assurance that subversive activities against them in the staff will not be tolerated. Article 100 of the Charter gives the members of the Secretariat the status of international civil servants, responsible only to the Organization and completely free of any influence by the Member States in the discharge of their responsibilities; but at the same time it imposes upon them the obligation to refrain from any action which might reflect on their status as international civil servants.

76. What actions fall into this category? For obvious reasons, the Charter establishes the general principle without going into details. Nevertheless, one has only to reflect on the principle to see that espionage, sabotage, systematic slanderous propaganda, in short, all subversive activities must be included.

77. Although the Charter merely established the general principle, the Assembly developed the principle and expressed it in specific rules, as may be seen from article I of the Staff Regulations adopted by the Assembly in Paris at its sixth session [*resolution 590 (VI)*]. That article expresses the Assembly's obvious concern that the members of the Secretariat should refrain from political activities. In other words, it considers that such activities might reflect on the status of international civil servants which the members of the staff enjoy. Thus, article I not only requires an official who becomes a candidate for a public office of a political character to resign from the Secretariat [*regulation 1.7*], but it draws the attention of all members of the Secretariat to the fact that, though they are not expected to give up their political convictions, they must at all times bear in mind the reserve and tact incumbent upon them by reason of their international status [*regulation 1.4*].

78. From this regulation it is clear that, whatever the political convictions of staff members may be, they must refrain from putting them into practice in any way which may be represented as constituting hostility to the government of a Member State since such actions would reflect on their status as international civil servants, which requires complete impartiality in all who hold it. This seems to be the opinion of the Secretary-General as expressed in paragraph 25 of his report: "Inherent in the pledge of loyalty to the United Na-

tions, and in the prescribed standards of conduct, is the obligation of the staff member to maintain impartiality, to avoid bias, in his work and in his behaviour." It may well have been with considerations of this kind in mind that the majority of the members of the United Nations Preparatory Commission, when discussing the question of the appointment of members of the Secretariat in London at the end of 1945, concluded that "it was common sense that the staff should, as far as possible, be acceptable to the Member governments, and also that the Secretary-General would often require information regarding candidates from government or private bodies" [*A/2364, para. 5*].

79. The governments of Member States could not tolerate activities against them carried on in the Organization itself by officials upon whom the Charter and the Staff Regulations imposed the obligation of impartiality, reserve and tact in the performance of their duties in the United Nations. No one can deny that the functions of the staff of the Secretariat are of a purely administrative nature, with absolutely no political content. A campaign to lower the prestige of a government, carried on surreptitiously and systematically inside or outside the Secretariat by staff members must be punished immediately by the Secretary-General like any other subversive activity, by such being meant any activity directed towards the overthrow of governments.

80. My delegation is sure that all the Member States will duly appreciate the Secretary-General's eagerness to put a stop to subversive activities by any member of his staff against the government of any Member State. We are also sure that, in such cases he will, before imposing any penalty, exhaust all the means of investigation in his power so that there can be no doubt regarding the justice of his decision.

81. In accordance with what I said earlier, my delegation will vote for the draft resolution submitted by France, the United Kingdom and the United States [*A/L.146*] with the amendment submitted by Belgium, Denmark, Luxembourg, the Netherlands, Norway and Sweden [*A/L.147*], which requests a further report by the Secretary-General which will be studied by the Advisory Committee on Administrative and Budgetary Questions before being submitted to the Assembly at its next session. We feel that it is most appropriate that the matter should be referred to the Advisory Committee, because it is a technical body with considerable experience of the administrative activities of the United Nations. The fact that its members act as experts constitutes a guarantee that the problem will be considered in the atmosphere of calm and impartiality which it requires.

82. Mr. RODRIGUEZ FABREGAT (Uruguay) (*translated from Spanish*): The Secretary-General's report on personnel policy [*A/2364*], which we are now examining, and his recent statement to the General Assembly [*413th meeting*], discuss problems of real importance and of a very complicated nature in the life and work of the United Nations. As the report itself says, the antecedents of this matter date back to the first days of the Organization, although the question has only now come before the General Assembly. But as the Secretary-General said in the relevant part of his latest statement on the subject

the matter in itself involves clear principles and requires concrete solutions which will establish a clear and definite line for future policy within our Organization.

83. This question and the relevant report have been submitted direct to the General Assembly for discussion by the plenary meeting without prior debate in a committee, and therefore without our having the opinions and conclusions reached by such a body, which might have served as a basis for our present discussions. This is indeed an exceptional procedure. My delegation hopes that such an exception is warranted and would have wished it to be compensated for by simple legal factors which would facilitate the discussions and the conclusions to be reached by the Assembly.

84. However, nothing of this sort has occurred and really could not occur in a question so serious and complicated as the one which we are discussing. On the basis of the statements to which we have listened, many of which have been of a masterly character, and to which on behalf of my delegation and my Government I am now making a modest contribution, it is clear that this is not a question to be discussed for a day and concluded in one plenary meeting, but is one which requires methodical study, which is what the General Assembly has so far been unable to give it. It is not a subject for academic speeches. It is a subject which is linked with the most important questions in the life and future of the United Nations and its principles, and with the governments which support those principles and the efforts made to serve them. Nor can we fail to note that this problem has come before us in connexion with another—the Secretary-General's resignation.

85. At this point and before taking up the main question, I wish to express the great respect which my delegation has had and continues to have for the Secretary-General. I wish to express my own esteem for the very fine qualities which Mr. Lie has shown in his daily work and throughout many years, in fighting for the ideas and principles which constitute, together with the existence of this Organization, the greatest hope of mankind.

86. From the day on which I presented my credentials until the present time, I have maintained very close contact with him in matters on which we were agreed as well as on points on which we held opposite opinions, because our common desire was to promote the welfare of humanity and to strengthen and improve relations between peoples and co-operation between nations. It has been my privilege to appreciate his worth and to understand the quality of his contribution to the work of the world Organization. The memory of that day came back to me against a background of emotional values which cannot be destroyed when from my seat in the General Assembly I heard Mr. Lie's speech reiterating his decision to resign, a decision which I so deeply deplore. No occasional difference of opinion can destroy our respect for this fighter for human rights and freedom. No passion inflamed by political fires can hide the qualities of his heart, which are those of his faith. And if these words of mine mean anything, and they come from my heart, I address them to Mr. Lie, who has honoured me with his friendship, now that we are entering into a discussion of his report on personnel policy.

87. Briefly, as I have said before, my delegation feels that the General Assembly should not adopt a final resolution before making a study of the various aspects of the problem, especially in view of the possible outcome of this debate. In the light of the material involved, we may well feel that the importance and complexity of this problem, far from requiring immediate and final decisions, call for careful and dispassionate study perhaps by a group set up by the General Assembly for that purpose. As for the problem described by the Secretary-General, it might also be felt that it should be a subject of study at the General Assembly's next session after the submission of the relevant information to the governments of the States Members of the United Nations. The nature of the subject would seem to call for this course.

88. I wish, however, to state that any study of the questions and any proposals advanced should attain the primary objective—that of giving the host country, whichever country it may be, the best, the most complete and inviolable guarantees that the Organization as such, its Secretariat and each one of its members, will not at any time cause any disturbance or anxiety in the affairs, especially the political affairs, of the host country.

89. I wish to add that, in order to confirm this principle, there is no need for any study, discussion, debate, speech-making or special report. All these are unnecessary because the principle is embodied in the Charter, it is enshrined in the Staff Regulations, and it is covered by the moral and legal obligations of its Members and by the moral and legal obligations of the Secretariat and its members.

90. When I speak of the "host country" I am naturally referring to any State on whose territory any organ of the United Nations is situated, or in which any activity of the United Nations is being carried out.

91. May I say that this building in which we are at present, this new building of the United Nations this glass-walled palace, this Headquarters through which, like rivers of human misery and hope pass the messages and the activities of many peoples, as well as the work of all the subsidiary organs and specialized agencies of this vast international institution, has been built on the splendid soil of the United States of America.

92. In the living history of the United Nations, and even more so in the living history of our times, when the world was still bleeding from wounds received in the fight against the depravity and the wickedness of Nazi tyranny which unleashed aggression against us, the United States of America, which was the cradle of the United Nations at San Francisco, has become its workshop and home. That which was born on American soil in the glorious days of the alliance, remains and prospers on that soil.

93. It is true, as has been said, that all Member States are or may become host countries. My own country has acted as host to certain United Nations bodies which have worked in Uruguay in an atmosphere of freedom, and still is host as regards many humanitarian activities of the United Nations. It is also true that countries which are not Member States may be considered as host countries, but the Organization's real home is here, and the most responsible

work is carried on here, physically and geographically, on the shores of a great island in the middle of this wonderful American city, on the soil of a country which has in recent times become the crossroads of history and a signpost for human hope.

94. As stated both in the Secretary-General's report and in the Charter, the United Nations, as an organization, has very well-defined duties towards the host country. Certainly, if the General Assembly had asked itself that question at the outset or *a priori*, there would never have been any difficulty. But neither *a priori* nor *a posteriori* could anybody fail to lay down or to recognize the principle prohibiting the international civil servant employed by the United Nations from engaging in any political activity. Nor could anyone ever maintain that any person who did not abide by that rule could be employed by the Organization. Nobody would ever have considered the working out, introduction and development of a system in which there was or could be any toleration for a United Nations employee guilty of a political or criminal offence, or for one who carries on or takes part in activities against the government or the institutions of the host country, or who meddles in its secrets or betrays its confidence or violates or disregards its laws. That to us is crystal clear and as definite and fundamental as a command.

95. But if that is so, then where is the difficulty? Was that point discussed by any chance? Has it perhaps ceased to be covered by the powers of the Secretary-General, who personifies the unhampered authority of the Organization itself? If I may say so, the answer seems simple.

96. To turn to the problem itself, it is sufficient to draw attention to the terms of the Staff Regulations. Regulation 1.4 states: "Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants." Up to this point regulation 1.4 simply repeats the provisions of the Charter. Then it continues: "They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status." The same regulation then goes on to add: "While they are not expected to give up their national sentiments or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status."

97. That is not all. Staff Regulation 1.8, after repeating the provision of the Charter to the effect that the immunities and privileges attached to the United Nations by virtue of Article 105 are conferred solely in the interests of the Organization, provides: "These privileges and immunities furnish no excuse to the staff members who enjoy them for non-performance of their private obligations or failure to observe laws and police regulations".

98. Thus, both in the principles regarding the political activities of international civil servants and the rules relating to laws and police regulations, the Charter and the Staff Regulations fully indicate the limits beyond which any activity would result in serious prejudice, infringement or violation of the laws and

guarantees which are inherent in the rights of the host country, as such, and cannot be divorced from those rights or disregarded.

99. This guarantee to the host country was thus already provided for in the Organization. It is provided for in the Charter and in the Staff Regulations. Consequently, the Secretary-General had authority to take steps to safeguard the guarantees and for my part I am sure that he was careful to discharge his duties in the light of these principles and precepts.

100. The Secretary-General, to whom I earlier expressed my opinion and my feelings with regard to his intentions, will permit me to say that he should not only have relied on the provisions of the Charter and on the precepts of the Staff Regulations; he should also have counted on the whole-hearted co-operation of the governments and of the permanent delegations working with him here, which were established before he took office, to collaborate with him in the great international cause of the United Nations. It would have been sufficient—and I think always has been sufficient—for the Secretary-General to sound the alarm or to issue an appeal to receive attention and assistance. The fact that in dealing with the problem, the Secretary-General sought co-operation from another source and before going to the permanent delegations working with him, asked for the opinion of three jurists, the fact that he preferred to go to the General Assembly after, instead of before, the event and before seeking other advice does not mean that that co-operation was not available. The desire to co-operate has always existed; in personnel matters, as I shall explain in a moment in all humility, on more than one occasion, my delegation, with others, has made representations to him and has requested him to consider matters which we felt were contrary to the rules of administrative law which must at all times govern the workings of an organization such as ours both in the establishment of duties and in the safeguarding and enforcing of rights.

101. For this reason, I do not feel that it is really necessary at this time—although I am not opposing it—to point them out in a resolution addressed to the governments of Member States, whose permanent representatives here have been co-operating with Mr. Lie, as if they had forgotten the cause of the United Nations which expresses the supreme ideal of international harmony, and the administrative, political or legal values involved in the problems as a whole.

102. The primary consideration in dealing with the problem should be the express provisions of the Charter regarding the powers of the Secretary-General in regard to the administration of the Organization and the rules relating to the members of the Secretariat and the staff of United Nations agencies.

103. As some of my distinguished colleagues have already said more effectively, Articles 97, 100 and 101 of the Charter prescribe the powers of the Secretary-General and lay down the rule to be followed. It should be added that the provisions of these articles were considered fundamental in the deliberations and decisions of the Preparatory Commission of the United Nations, in the deliberations and decisions of the Assembly itself in 1945, just after the San Francisco Conference, and in 1946, during the first session in

London. However, even at that time, some delegations were maintaining another principle which seemed to limit the powers of the Secretary-General in regard to appointments. This principle was that the appointments of members of the Secretariat should be subject to the approval of the government of the Member State of which the candidate was a national.

104. Reference has been made to that point and it should be placed in its context by recalling the factors which led us to the present provisions. It was also argued at that time that the Secretary-General should obtain information in all cases, from both governments and private institutions, concerning possible candidates for positions in the Secretariat. Nevertheless, the principle laid down in the Charter and developed in the Staff Regulations was accepted. It vests in the Secretary-General the broadest powers to make appointments and, consequently, to decide on terminations and dismissals. But government by one person easily slips, slowly at first and then frequently with great rapidity, into arbitrariness. Bearing that in mind, although there had been no question of arbitrariness and the Secretary-General has not acted arbitrarily, the Assembly itself approved measures which, among other things, provided for the organization of an Administrative Tribunal with power to redress any possible injury and to uphold the rights of staff members, who should not be treated solely in terms of their obligations.

105. In this matter, however, the Opinion of the jurists [A/2364, annex III] appointed by the Secretary-General goes much farther, or seems to go much farther than the decisions of the Assembly, a point to which the representatives of Norway referred during the first day's debate on this question [416th meeting].

106. In this respect, the jurists seem to have gone beyond or above the decisions of the Assembly and the powers conferred upon it by the United Nations Charter. The three jurists began by saying: "The existing procedure of the Joint Appeals Board and the Administrative Tribunal is not suitable to deal with the cases we are examining under this question." They went on to say that the Secretary-General should refuse to lay before the Joint Appeals Board and the Administrative Tribunal the information laid before the Advisory Panel.

107. Let us assume that this method is extended to the United Nations administration. Let us assume that we accept the principle of not submitting information and evidence to the Administrative Tribunal which is the court of appeal available to staff members for the defence of their rights. Let us assume that as the jurists recommend this documentation and evidence is not submitted. We should find ourselves in a situation in which the Administrative Tribunal, in taking up an appeal of this kind, would be unable to examine, take cognizance of, weigh, or understand the documents on the basis of which the staff member whose appeal was to be judged had been dismissed.

108. If my interpretation, and the interpretation of other representatives, of this point in the jurists' Opinion—an Opinion recommended by the Secretary-General—is correct, I refuse to consider it further. I cannot regard it as a rule of law. I cannot believe that one can accept as a rule of law refusal to use evidence which must form the basis of the claim of

the appellant who considers that his rights have been impaired and seeks redress from the court of appeal. I refuse to consider as a rule of law anything which I believe to be so lacking in merit.

109. Before considering other aspects of the problem as brought before us, I should like to say that if my interpretation and the interpretation of other representatives of this point in the jurists' Opinion is incorrect, I apologize in advance and would welcome a correction. It would be a further proof that we are well-advised in asking for more intensive study of the question. We cannot accept as *res judicata* a legal document the terms of which are so obscure or so lacking in legal substance.

110. The representative of France said yesterday [418th meeting] in this Assembly that circumstances themselves made this debate essential. He said that official optimism was no longer in order, that we should not close our eyes to the crisis through which the Secretariat was passing. The crisis, he said, was not due only to the relations between the authorities and certain sections of public opinion in the host country; it was also an internal crisis.

111. Without drawing hasty conclusions regarding the nature of that crisis, if it exists, we may say that the problem of the United Nations staff has two aspects: the purely administrative, internal aspect, and the political aspect which is dealt with in the report before us. With regard to the former, I need only say that my delegation, like other Latin American delegations, has made friendly representations to the Secretary-General regarding what it felt to be arbitrariness in certain administrative decisions affecting staff members. The procedure in some of these cases was obviously capricious, not to say arbitrary, or at least novel.

112. I may add—because a representative always keeps his own country's customs in mind—that my delegation cannot accept the use by those responsible for the administration of the United Nations of procedures which have been abolished as arbitrary under the administrative law of our country. When such cases arose, cases having no connexion with political activities or dangers of subversion, we asked what were these "high standards" which were invoked at times in order to deny permanent contracts to members of the staff after years of service during which they had received promotion.

113. We said then that administrative law was not merely a figment of the imagination, or something vague and ever-changing designed to create an atmosphere of insecurity for the staff as though they were surrounded by spectres on every side. It must be admitted that one of these spectres is that of dismissal, followed by hardship or, what is worse, the mistrust of all, without having given good ground for it.

114. When these so-called "high standards" govern the whole administration of an organization like this they should not be referred to in the abstract. They must be defined, laid down, clarified and given form weight and measure; otherwise all the staff, the men and women of our Organization, will be at the mercy of arbitrary rule.

115. On this point I should like to recall what the representative of France, among others, said yesterday:

"Today, no staff member feels sure of the present, much less of the future. No staff member can tell himself that he is going to make his career in the Secretariat. As a result, there has been no real fusion of the diverse elements that make up the staff as a whole. In short, no team spirit, no feeling of belonging to an international public service has developed as it should have developed . . ." [para. 116].

I do not know whether the French representative's remarks give an accurate picture of the situation, but they are significant—and if I may resume from this rostrum the conversations with which the Secretary-General has so often honoured me, since he too spoke from this rostrum on the same subject—I should like to state that, in administrative, non-political cases, it is essential to define these "high standards" set by the Administration, for it is on them that depend the permanent contracts and the fate of so many staff members, who are often highly deserving.

116. I should prefer, even as a principle of law, to see permanent contracts occasionally granted to persons whose merit is not outstanding than to have them withheld on the grounds of "high standards" which are an unknown quantity, when a permanent contract is deserved on the grounds of years of service in the Organization. I say this because in my country we have devoted special attention to the principles of administrative law to be followed in the civil services, and to the rights and duties of civil servants. I may say that from the political point of view Uruguayan civil servants, both at home and abroad, may be for or against the policy and actions of our Government: that is a matter for them to decide. It is a matter of opinion, a matter of conscience. The conditions to be fulfilled by civil servants are laid down in the Uruguayan Constitution. They can only be dismissed, in accordance with the Constitution, on grounds of proven inefficiency, negligence or misconduct and for dismissal on those grounds the approval of the Senate of the Republic is required.

117. We believe that democracy lives and thrives through the law which is its foundation and the freedoms which it protects. We maintain that the United Nations is the purest expression of the democratic aspirations of the peoples of the world. We maintain that in this Organization we must keep alive the principles for which men from every quarter of the globe have fought and died with heroism and faith under the flags of the Allied nations.

118. But the problem as it is now laid before us involves other specific issues, to which a number of representatives have drawn our attention. One representative said that circumstances themselves made this debate essential, but that is a matter we have already discussed and which we shall undoubtedly continue to discuss with the Secretary-General, in whose hands we have confidently left the solution of this problem of administrative law, not on the basis of personalities or even of nationalities, but on the basis of rules and principles.

119. The problem involves both legal and political principles, which are indeed the crucial factors, as this general debate has clearly shown. This debate has brought out the various aspects of the question. It has indicated the matters which should be studied

or at least meditated. Those who propose that we should close the subject at the end of this debate are though the question were settled or concluded are surely in the wrong. The problem has developed outside the Assembly without any intervention by the latter. It is now being considered by the Assembly, but it has not been referred to a committee, it has not been examined by any of the usual working groups. The facts and circumstances of the case have not been analysed. We have not weighed the various factors involved and yet several representatives have formulated fundamental, crucial questions.

120. I should like to refer to some of the legal points that have been raised or formulated in this discussion. One is: does the law of the host country apply to nationals of that country who are members of the United Nations Secretariat? Another is: does that law apply to them both in the territory of the host country and when they are serving in areas outside its jurisdiction? As I said earlier when referring to the guarantees that must be afforded to the host country, there can be no question that the law of the host country is binding on its nationals. There is another legal point: does the law of the host country apply to the nationals of other Member States?

121. There is a further point: does the definition of a political offence in the law of the host country apply to the nationals of another State whose law does not define the same type of offence in the same way?

122. Another point which has been raised here is whether a United States staff member can be punished if he claims the right not to testify under the United States Constitution.

123. There is the further question whether the government of a Member State other than the host country can prevent the appointment or secure the dismissal of one of its nationals because he is not a political supporter of that government or has been declared an enemy by it.

124. I could mention many other legal and political points which have been raised for the first time in this debate; at this stage in the session, and under these circumstances, it may be asked whether these questions can be considered to have been defined and settled in the course of this debate without previous discussion and study? If it is held that the legal points to which I have referred have been settled, in accordance with what principle have they been settled? In accordance with the principles followed by the Secretary-General?

125. It has also been proposed that we should consider the study of the matter to be completed and trust the Secretary-General to follow the provisions of the Charter. This proposal is embodied in a draft resolution submitted by three delegations [A/L.146]. But we have heard the representatives of two of those delegations here express their views and explain the principles upon which their draft resolution is based and they took up contrary positions and expressed views which can hardly be reconciled in a single draft resolution.

126. How can we fail to complete the study which these problems require? How can we neglect to complete it when, after all, it does not imply the suspension or violation of those guarantees which must be provided

in full to the host country of the Organization in the matter with which we are dealing? But, has not the Secretary-General himself told us that he does not accept all the principles contained in the Opinion of the Commission of Jurists from whom he requested an opinion and probably advice? We heard him say so. Which principles, therefore, does he accept and which does he reject in this Opinion which he requested and which he has now transmitted to us?

127. Furthermore, when the Secretary-General decided that his personnel policy should henceforth be based on the principles laid down by the Commission of Jurists, did his subordinates know any better than we do which principles the Secretary-General did not accept and which would lead him to change his administrative policy? For my part, I have been unable to discover the points of disagreement between the Secretary-General and the Opinion of the Jurists which he requested. I am not offering criticism. I have been obliged to bring to this rostrum papers and notes which would be better fitted to a calm and unhurried analysis of the question than to a speech before a plenary meeting of the Assembly; I am merely bringing together the facts of the case on the basis of which final conclusions can be based and in so doing I do not intend to offer any criticism.

128. In any case, if the Secretary-General has been unable to accept all the principles of an opinion which he himself requested on the matter before us, it is surely logical (if there is any value in logic) that we, and not only we, but at a higher level, our governments, should need to consider the extent and the nature of our agreement with each point at issue. And we cannot do so in a single debate in a plenary meeting of the General Assembly.

129. Moreover, there is no need to consult jurists to know that only strict observance of procedure can ensure methodical study and the final settlement of any question. I have no need to add that the Secretary-General is empowered by the Charter and by the Staff Regulations to decide on the dismissal of a staff member who has broken the law or the Staff Regulations, whether by a political offence or by a breach of the ordinary law. In a word, he has full power and authority, and, with the support of the living conscience of the United Nations, can offer and maintain the strongest guarantees to the host country that members of his staff will refrain from intervention in politics or from engaging in subversive activities.

130. But, as we study this problem, at a time when so many things appear to be turning public opinion in this country against the United Nations, the Secretary-General tells us as a number of our colleagues have pointed out, that there has been only one case of a political offence committed by a staff member of the United Nations. That is to the credit of the Secretariat and should be given due prominence. Generally speaking, and as one who works continuously in the cause of the United Nations, as representative of my Government, I feel bound to express, as I have frequently told Mr. Lie, not only my highest esteem for the character of the United Nations staff members but my deepest gratitude for the helpfulness and spirit of co-operation with which I continually meet as I go about my duties on behalf of my Government.

131. There neither can nor should be room in the Organization for persons serving only for gain or those who keep the moral law only from fear. This Organization is in the service of a high ideal of human brotherhood. I think of the men and women of the United Nations—technical experts and office workers, intellectual workers and manual workers, translators and interpreters, who give of their best to express my humble words in other languages; men and women of the United Nations who travel by land, air and sea to carry food and supplies from the United Nations International Children's Emergency Fund to needy and destitute children throughout the world; workers and technical experts of the Food and Agriculture Organization, the World Health Organization and the International Labour Organisation, providing food, improving health conditions, reaffirming trade-union rights under the harshest laws, draining marshes and providing opportunities of health and life for all and for the generations to come; committees and delegates of the Trusteeship Council bearing the message of social rights from our Organization to maintain the principles of the Charter in Non-Self-Governing Territories and among peoples who have not yet achieved self-determination; commissions and representatives of the Economic and Social Council re-establishing economic and social human rights as the basis of political freedom and all the dignity of the human person; missions and commissions of this Assembly itself which go wherever there is tension and distress, to establish independence, to remove obstacles to human progress, promote peace for all men and all women, for every people, for all mothers who with their children bring us a divine message of love and hope, never to be destroyed by the holocaust of war and give the world fresh hope as fear is banished from their hearts by progress and by brotherhood.

132. This is the United Nations; this is the cause that must always be served by its officials and staff and their loyalty, by governments and by representatives, with the provisions of the Charter as the supreme law and with the sacred duty of acting with wisdom and with probity, in order to justify the trust of all peoples and of all nations and the hopes of all men.

133. Let us carry on this work with the solidarity and the confidence of the people of the host country, the United States of America, upon whose glorious soil this building stands. I say once more that my delegation, the delegation of Uruguay, representing the functional democracy of my country, continues to offer its collaboration and I once again pledge my own humble efforts to continue to work, not in discord and hostility, but in collaboration with the Secretary-General, as before and as always, in order that we may provide all the guarantees which should be offered in the name of justice and the moral law, and to uphold within our walls this principle of right and probity which makes organizations great and nations glorious.

Request for the inclusion of an additional item in the agenda of the seventh session: report of the General Committee (A/2379)

[Agenda item 7]

134. The PRESIDENT: I know that it is rather late, but before we adjourn I should like, if the Assembly

agrees, to deal with the report of the General Committee [A/2379] which is before you and which contains two recommendations, which should, I hope, not prove to be too controversial. Paragraph 2 of this document states:

“The General Committee decided to recommend to the General Assembly the inclusion of the item in the agenda in the following form:

‘Complaint by the Union of Burma regarding aggression against it by the Government of the Republic of China’

“It was further decided to recommend that the item should be referred to the First Committee for consideration and report”.

135. Is there any objection to the inclusion of this item in the agenda as recommended by the General Committee? If not, it will be so included.

It was so decided.

Organization of the work of the General Assembly: report of the General Committee (A/2379)

136. Mr. KHALIDY (Iraq): I speak on the recommendation of the General Committee [A/2379, para. 3] concerning the recess until Monday.

137. You will probably remember that the original plan and suggestion in the General Committee was that the meetings should be resumed on Tuesday morning. That suggestion has a great deal of merit. To begin with, Monday itself is a holiday in the religious sense, and if my Government were an adherent of the great religion of Christianity and had that religion as its official religion, we should have hesitated to ask for that change. However, as my Government has the greatest respect and the best relations with one of the greatest and most human institutions, the Catholic Church, we should be inclined to include Monday, which is a religious holiday, in the recess in deference to the Catholic faith. This is one argument.

138. On the other hand, it would give some time for delegations which are short-handed as regards personnel to pursue their office work at a more leisurely pace—and by leisure I mean not having to come to the United Nations on that day. There is also the consideration that many representatives would like to leave town and would like to know what time they have at their disposal, so as to plan accordingly.

139. I feel sure that the President will fix a time that will suit the convenience of most of the delega-

tions. However, if the time were to be fixed on Monday, delegations might be in some doubt. They would be in a better position to allot their private and public available time if they knew that they were coming here Tuesday morning for certain.

140. For these reasons and for others which I should not like to burden the Assembly with at this late hour, we would present an amendment fixing the time of the reconvening of the Assembly as Tuesday morning.

141. The PRESIDENT: An amendment has been moved to the recommendation contained in paragraph 3 that the time of reconvening should be Tuesday, 7 April, rather than Monday, 6 April 1953. We shall now vote on the Iraqi amendment.

The amendment was adopted by 26 votes to 12, with 10 abstentions.

Complaint of the Union of Burma regarding aggression against it by the Government of the Republic of China

[Agenda item 77]

142. The PRESIDENT: The representative of Burma has asked for permission to make a short statement with respect to the decision which the Assembly took a few minutes ago.

143. U KYIN (Burma): I am very much obliged to the President for calling on me at this late hour to speak on the attitude of my Government on the decision which has just been adopted in connexion with the complaint by the Union of Burma regarding the aggressive activities of the Formosa troops.

144. All the same, what I should like to say here is that had a vote been taken on the report [A/2379] I would have abstained on behalf of my Government. The reasons for doing so are: first, my Government knows of only one Government in China, namely, the Central People's Government of the People's Republic of China; secondly, this word “Kuomintang” is so well known throughout the world that there is no necessity for the replacement of this word by any other; thirdly, remembering what the Roman poet Horace wrote in his “Satires”: *mutato nomine de te fabula narratur*, we are afraid that if we changed the name from “Kuomintang” to any other, the whole story about Formosa would still have been told.

The meeting rose at 6.30 p.m.