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President : Mr. José MAZA (Chile).

AGENDA ITEM 8

Adoption of the agenda (*continued*)

FIRST REPORT OF THE GENERAL COMMITTEE (A/2980) (*concluded*)

1. The PRESIDENT (*translated from Spanish*): The list of speakers, as I announced at the 529th meeting, will be closed at 3.30 p.m. The General Assembly will now continue its examination of paragraph 5 of the first report of the General Committee [A/2980] which recommends that the item "The question of Algeria" should not be included in the agenda.
2. Mr. KUZNETSOV (Union of Soviet Socialist Republics) (*translated from Russian*): The General Assembly has before it the request [A/2924 and Add.1] of fourteen African and Asian States that the Algerian question should be included in the agenda of the tenth session of the General Assembly. It must be borne in mind that the Algerian question was discussed at the international Conference of twenty-nine Asian and African countries at Bandung, which adopted a resolution calling on the French Government to take immediate steps for the peaceful settlement of the question.
3. Recent events in Algeria show that those concerned have turned a deaf ear to the twenty-nine Governments' appeal. No attempts whatever have been made to ease the tension in Algeria and find a solution which would take into account the national interests of the Algerian people. The uneasy situation now prevailing in Algeria constitutes a threat to the peace in that region and cannot be regarded as the internal concern of one State. It is thus understandable that events in Algeria are a source of justifiable anxiety to neighbouring States. This question is therefore of grave international significance.
4. We consider that the United Nations cannot ignore events in Algeria. It is the General Assembly's duty to consider the Algerian question in order to bring about, in accordance with the principles of the United Nations Charter, a peaceful settlement in keeping with the interests of all concerned, and, first and foremost, with the legitimate rights and national interests of the Algerian people. The Soviet delegation will therefore support the fourteen States' proposal that the Algerian question should be included in the agenda of this session of the General Assembly.
5. Mr. TSIANG (China): The question before the Assembly is the recommendation of the General Com-

mittee not to include the question of Algeria in the agenda of the tenth session of the General Assembly. In the technical language of the United Nations, this debate is what is usually called a procedural debate. The President has allowed — and, I think, wisely allowed — the speakers to present their views fully, not only on the question of the competence of the General Assembly, but also on the history and the laws of, and the conditions now prevailing in, Algeria.

6. The debate has, on the whole, been informative and therefore helpful. It is, however, not conclusive. On many important points connected with this question my delegation will continue to keep an open mind. If the question of the inclusion or non-inclusion of the item were one of principle, pure and simple, my delegation would have no difficulty in making up its mind. Faithful to the teachings of Dr. Sun Yat-sen, we are against colonialism and imperialism. In the United Nations, my delegation has invariably taken a strong stand against colonialism or imperialism in Asia or Africa or anywhere else. It is, furthermore, our belief that the Charter of the United Nations is an anti-colonial and anti-imperialist Charter.

7. In connexion with the Algerian question, one very important consideration has weighed heavily with my delegation. We observe that France has adopted substantial measures to liquidate colonialism in Tunisia and Morocco. The reforms already adopted and about to be adopted are the work of French liberal leaders. We understand that the French liberals have had to face stubborn opposition from certain groups in France whom I would call the die-hards of France. My delegation entertains the hope that the liberals in France will strive for changes and adjustments in Algeria in harmony with the spirit of the times and in loyalty to those very principles for which France has fought in the last century. We are, furthermore, apprehensive that the debate on Algeria may strengthen the die-hards in France and weaken the position of the liberals there. For this reason, we have not found it wise to associate ourselves with those who have called for the inclusion of the Algerian item in the agenda of the Assembly.

8. Mr. CHAMANDY (Yemen): The representatives of the fourteen Asian-African nations which formed part of the conference held at Bandung, and the representatives of those nations which manifested their sympathy for the cause of the freedom of Algeria, spoke from this rostrum and presented to this august body irrefutable evidence to prove that the decision taken by the General Committee not to include the question of Algeria in the agenda of this session [103rd meeting] was an unwise decision and was in contradiction of the principles of the Charter of the United Nations.

9. The people of Yemen, who for many years went through a bitter fight to acquire their freedom and independence, certainly are in deep sympathy with the Algerian people. The Algerians are paying a costly

price in their fight for freedom and for the right to self-government.

10. The speakers who preceded me have dealt extensively with this question, and the repetition of evidence and legal points might be tiresome. However, we are now facing a serious problem. We are witnessing a holocaust which has taken the lives of thousands of human beings because those human beings were clamouring for their freedom and emancipation. We wonder whether asking for one's freedom is a serious crime which deserves the penalty of death.

11. The delegation of Yemen cannot remain silent while the people of Algeria are being subjected to unjust acts. It wishes to add its voice to the voices of the other nations protesting against these acts which do not belong to this age, and against the action of the General Committee in recommending the omission of the question of Algeria from the agenda.

12. In so doing, we are moved not only by our deep sympathy for the struggle of the people of Algeria to regain their right to human dignity, justice and freedom, but also by our conviction that under the auspices of the United Nations, and by the observance of the principles of the Charter, the legitimate rights of the Algerians could be restored without imperilling international peace and security.

13. That was our sincere hope when we joined the other nations which proposed the inclusion of the question of Algeria in the agenda of this session. Unfortunately, however, it seems that our hopes will be shattered and dissipated in the dark alleys of power politics unless the General Assembly reverses the decision of the General Committee.

14. We appeal to the representatives here present who opposed the inclusion of this item in the agenda, to reconsider their previous stand and to cast a new vote in favour of its inclusion.

15. It is highly regrettable that those representatives closed their eyes to the terrible happenings which are now taking place in Algeria and were lured by the allegations of the French Government that Algeria is a part of France.

16. How can the Algerians be Frenchmen while the two peoples are far apart in cultural, racial and religious affinity? Cannot these differences be seen? If the French say that Algeria belongs to them by the right of conquest or by the right of treaty, our answer to them is that in this era of progress, no nation should be permitted to subjugate another nation. As regards treaties, any unbiased historian will tell us that these treaties were imposed on the Algerian people, who never tolerated the presence of the French among them nor recognized their sovereignty.

17. We would also tell them: why do you not let this matter, in all its details, be heard by the United Nations? It is true that the French granted citizenship to the people of Algeria. But the Algerians do not want this second-class citizenship in which they are denied their full rights and equality, whether in matters of the administration of their country, the exploitation of its natural resources, or the benefits of its trade which, for the most part, go to the French settlers.

18. It is true that there are Algerian representatives in the French Parliament, but their number has never been in proportion to the number of the population of Algeria, nor have they enjoyed full representation.

19. If the Algerians were happy and satisfied with their association with the French, they would not be clamouring for their freedom now.

20. The question must now be asked: what is Algeria's status today? It is not a protectorate, since there is no treaty, international agreement or convention giving it such a status. It is not a Trust Territory, since it does not fall within the definition of Article 77 of the Charter. It is not part of the territory of France, since its geographical location separates it from France. Algeria lies beyond the seas, and article 60 of the French Constitution makes a distinction between France itself and its overseas areas. The preamble of the French Constitution clearly states that "France forms, with the peoples of its overseas territories, a Union based upon equality of rights and duties without distinction of race or religion." Where is that equality and where are those rights? Even if we assume for the sake of argument that France actually consulted by democratic means the people of Algeria and they have actually agreed to limit their sovereignty in favour of metropolitan France, offering such equality of rights and duties without distinction of race or religion, are not those same Algerian people now free to change their status by democratic process after spending one-and-a-quarter centuries experiencing what turned out to be unsuccessful French experiments of assimilation and integration which have in fact not resulted in the promised equality of rights?

21. The people of Algeria are today still living in terror of reprisals and impositions of heavy monetary penalties, and the French, instead of taking humanitarian measures to improve the situation, are still pouring in troops withdrawn from their North Atlantic Treaty Organization (NATO) forces to take drastic measures and impose more penalties. Maybe they promised some reforms, but no reforms seem to be forthcoming. If any reforms are introduced, they will help the colonists and not the native inhabitants. This lack of equal treatment, which has been proved by official reports and the pronouncements of the French leaders themselves in this so-called integral part of France, deprives France of the right to base its case on theoretical legal claims to domestic jurisdiction.

22. The distinguished representative of Iraq has referred [525th meeting, para. 93] to the telegram from Mr. Messali Hadj, president of the Algerian national movement, now in enforced residence in Angoulême, appealing to the General Assembly not to endorse the antiquated and already renounced principle of right of conquest. With your permission I wish to refer to it again, because in this debate what is important — in fact very important — is to know the point of view of the Algerian nationalists, who are the second party involved in that tragic Algerian war and concerned with the outcome of our deliberations on their request to get a hearing by this Assembly.

23. Mr. Messali Hadj, hoping that the General Assembly rejects this fantastic recommendation of the General Committee, says:

"The refusal by the Assembly to discuss the issue would close the second of the only two doors open to a peaceful negotiation in this dispute. . . . If this should happen, responsibility will fall upon those who have deprived the Algerian people of their rights under the United Nations Charter by prejudicing the issue in favour of France. To the Algerian people in particular and to the free world in general a vote cast against inscription on the French claim that Algeria is

irrevocably part of France would be a stamp of approval of the worst of all colonial rights, the right of conquest."

24. As you see, the Algerian national leader interprets the argumentation and the decision of the General Committee as in effect leading the United Nations to the approval of conquest. Does this seem far-fetched? Then let me call your attention to the remarkable fact that no less an authority than the French representative, Mr. Alphand himself, agrees with Mr. Messali Hadj. Mr. Alphand, in his presentation before the General Committee [103rd meeting], virtually based his claim against inscription on the right of conquest. There is no disagreement on this point.

25. If France were permitted to decide, on the basis of her own unilateral interpretation of Article 2, paragraph 7 of the Charter, what a body of the United Nations could or could not discuss, then France could in effect have a veto power over the business of the General Assembly. This was clearly not the manner in which the framers of the Charter intended that Article 2, paragraph 7, should be applied.

26. The case of Algeria is based not only on the principle of self-determination and human rights, but it also involves a violation of an international treaty, that is, the Genocide Convention, to which France is a party. We need not enumerate the violations of this Convention by the French, the past and the present drastic measures taken against the Algerians, because they are well known to all by now.

27. For all the aforementioned reasons, the delegation of Yemen appeals again to the honourable delegates here present to cast their vote in favour of the inclusion of the question of Algeria in the agenda of the current session, and may the Almighty guide them to do so for the sake of humanity and the protection of the rights of the subjugated peoples.

28. Mr. SPAAK (Belgium) (*translated from French*): A certain parliamentarian once said: "A speech has sometimes changed my opinion, but never my vote." I trust that this disillusioned and perhaps somewhat cynical remark does not apply to this Assembly and that we are always resolved to consider in all objectivity the problems which come before us.

29. It is seven years since last I had occasion to stand on this rostrum of the United Nations. This is my first visit since 1948, and I hope you will allow me to speak with that frankness which has always been shown towards me and to tell you, very candidly, that when I return to Belgium tomorrow, I shall arrive feeling somewhat depressed and most anxious about the fate of the United Nations, where I have found vast and serious changes.

30. The speakers who have asked the Assembly to vote against the General Committee's resolution have said that the prestige of the Assembly was at stake. I must say that in all their speeches this is the only part which I thought moderate. As I see it, the vote we are about to cast involves more than the prestige of the Assembly. It is a question which challenges the essential principles on which this Organization was founded and, in my view, if the Assembly were guilty of contravening in what seems to me an all too obvious manner, Article 2, paragraph 7, of the Charter, many of us would be faced with the agonizing question: How can we possibly remain in an Assembly which so palpably violates the contract that links us one with another?

31. The other day, and again this morning, I listened to speeches which dumbfounded me. I heard it said this morning that we were competent to discuss this tragic and painful case of Algeria because blood was being spilled in Algeria at this moment. Is the United Nations, then, to seize upon every question where it can be shown that blood is being spilled?

32. Another speaker this morning said — and I noted his words particularly — that any "human group" having a claim to assert should be able to bring it before this Assembly. Are we going to transform the Assembly into a sort of international court? Beware, gentlemen: it is not only collective national claims which may one day be brought before such an international court, but also other social claims, human rights other than that of self-determination. Is that the course on which we are going to embark?

33. Yet another speaker said that we were competent because many of us — almost all of us, in my view — were anxious about what was happening in Algeria. But shall our proceedings henceforth be governed, and our competence be decided, on the basis of notions as vague and as sentimental as these — notions deserving of respect, but nevertheless purely sentimental?

34. If words such as those had been uttered at San Francisco — where I was myself present — I assure you that I should have hesitated long before advising my Government to enter the United Nations, for I should have felt that I was advising it to join, not an orderly assembly capable of constructive work, but a chaotic and nondescript body in which no rule would ever be respected and any individual country would be at the mercy of decisions taken by fortuitous majorities.

35. I venture to ask those who were at San Francisco, those who were the authors of the Charter, those who inspired it and have always served it well, whether this is really what we wanted.

36. As a rule, I am not one to set too great a store by points of law. I am well aware that political life cannot be contained within certain legal formulae, but at the same time I do not believe that the law must be flouted, and, as regards the case in point, the important thing in carrying out and recognizing the principles embodied in the Charter is that it is a contract which we have concluded amongst us. By contravening an Article of the Charter, we are breaking faith with all our Members, who believed that in this Assembly and in this Organization they would have certain guarantees, but who suddenly observe, as I think was also said this morning, that when certain questions of a particularly sentimental and emotional nature are at issue, the written word and the guarantees contained in the Charter are no longer respected. In so far as I am concerned, I can never accept such a point of view.

37. It seems to me that the question before us should be considered from two points of view, the legal and the political. I modestly claim that the school of thought to which I belong is a sound one from both points of view. If you would know my deeper feelings, since questions of law are — I believe — always debatable, I consider that my argument is still better from the political than from the legal viewpoint; and, when I speak of the political viewpoint, it is of course the interests of the United Nations that I have in mind.

38. It seems to me that Article 2, paragraph 7, of the Charter is completely unequivocal. Although both in my professional and in my political life I often have occasion

to admire the subtleties of jurists, I must say that for some days now I have had more than enough of them. The way in which certain people take texts and manipulate them in order to alter their real meaning, contrary to our intentions at San Francisco, has gone to lengths hitherto outside my experience.

39. Article 2, paragraph 7, of the Charter explicitly states: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State . . ." Therefore the only question that we have to consider, in law, is whether the Algerian affair is, or is not, essentially within the domestic jurisdiction of France. And if an objective study of the facts — and in this case not only of the facts, but even more, an objective study of the documents produced by the French delegation — forces us to admit, perhaps even against our political judgement or against our humane instinct, that this is indeed a matter which comes within French domestic jurisdiction, then, if we wish to be honest with one another in this Assembly, we cannot pursue the question further.

40. The representative of Colombia rightly said [525th meeting], and he was rightly supported by the representative of the United Kingdom [529th meeting], that if Article 2, paragraph 7, had not been included in the Charter, some of the nations here present would not have accepted membership in the United Nations. However international our spirit may be, let me warn you once again that we cannot afford today, nor will you be able to afford tomorrow, to see groups which I can only term fortuitous majorities, banding themselves together here in the United Nations and agreeing to intervene in our domestic affairs.

41. By opposing today the argument which you are championing, it may well be that we are defending your own situation and your own safeguards of tomorrow. In my view, gentlemen, no form of international life is possible, and certainly no international organization can exist, if every country claims for itself the right to intervene in the domestic life of the others. And in this connexion I should like to make my position still clearer. From the moment a country becomes a Member here, it should be safe from any interference in its domestic affairs. Gentlemen, before you admit a country to take its seat among you, you have each one of you the right to examine whether its domestic legislation is in conformity with the principles of the Charter. But what you cannot do, for that would not be fair, is to say to that country, without specifying further: "We are admitting you, as we consider that you fulfil the desired conditions", and then, a few years later, suddenly in some situation or another, again to raise the whole question of the domestic legislation of the country you have accepted. In admitting that country as a Member, you explicitly and formally concede — and, I would add, in a manner that brooks no appeal — that you are debarred from discussing that country's internal legislation, as is the case with all the countries represented here. You would have the right to do so only if a country enacted fresh legislation which, in your eyes, or in the eyes of the majority of the Assembly, changes the situation in regard to Article 2, paragraph 7. Then, I think, you might perhaps fittingly say something.

42. To justify their arguments, the opponents of my school of thought have appealed to case law. It is quite natural to cite precedent and I do not contest the legality of the procedure. But each case must be examined

separately. [Gentlemen, I tell you frankly that I do not think the majority of the United Nations has always voted wisely in every case and in my view they have already, in some circumstances, embarked upon a dangerous course. But is it really a convincing argument to say: Since we have been wrong before we shall persist in our error.]

43. It must be admitted that this time we are dealing with a most exceptional case, and what makes it still more serious is the fact that it is a test case. For after all, gentlemen, what are the opponents of the non-inclusion proposal doing? What have they done? What were they doing throughout the 525th meeting and what have they been doing the whole of today? We were given an example only a moment ago: they have been discussing the scope, validity, expediency and wisdom of a number of French laws. And what laws are these? Laws made by France to cover the cause at issue? Laws of quite recent date? Are they laws of which you were unaware when you became Members of this Organization side by side with France? Do they represent a situation which had been concealed from you? By no means; some of the laws in question are a century old. And may I say, more especially for the benefit of those of you who take a lively interest in legal problems, that what you are actually doing is discussing a whole group of French constitutional laws.

44. The French Constitution of 1875 and that of 1948 govern the relations between France and Algeria.

45. But I would ask you, gentlemen — and if I appear to labour this point, the reason is that I consider it is a telling point — to think of what may happen to each of us if the precedent which now it is being attempted to establish becomes part of the case law of this Assembly. Let each of us search within his own heart, let each examine the situation in his own country and ask himself what could happen if we continued along the path which we are now entering; let him consider if there is not a risk that some day or other, in connexion with some as yet hardly foreseeable issue, the constitutional laws of his own country may come up for discussion; and let him ask in all conscience what would be his reaction and his attitude if speakers from this rostrum were to demand a public discussion of those laws. Am I mistaken when I say there is real danger in following this road?

46. I know that as a speaker I am given to polemics, and I must sometimes make a great effort to restrain myself. Today, however, I must admit — I am going to say it as kindly as possible, without raising my voice — that what we have witnessed here struck me as bizarre. Some speakers and some representatives are really — I am looking for the most parliamentary and least offensive term — very imprudent. I have listened to representatives discussing, admittedly with much learning, the features of French electoral law and telling us that in their view it is not a very good one, that it ought to be overhauled, and they gave the French Government much useful instruction by which it will undoubtedly profit. But they made the mistake of awakening my curiosity and I went to the trouble of looking up the electoral law in their own countries. I will not conceal from you my surprise at finding that in the countries of many of the speakers who have preceded me here there was no electoral law at all.

47. Let me say this: I do not claim that everything which goes on in Europe is good nor that everything which went on there in the past was good. Certainly not.

But I should like to ask some of my colleagues and some of the representatives in this Assembly to bear in mind that while it is perhaps possible to give us lessons, it is certainly also possible, by watching what goes on in Europe, sometimes to follow certain examples.

48. Where are we heading if we continue along the lines we are now following? One thing has astonished me in this Assembly. To listen to certain representatives one would think that there is only one single human right — the right of a people to self-determination. Far be it from me to deny for one moment the importance of that human right, and I am not even making a concession when I say that I am prepared to admit it as the most important, the first human right. But I would have you, on your side recognize with me the fact that the right of peoples to self-determination is not the only human right which must be guaranteed in the modern, civilized and democratic societies to which we belong. What would become of this Assembly if, in keeping with the method now in vogue, we called upon it in our turn to investigate, in a vast survey, how human rights as a whole are applied in each of the countries represented here, if we were to ask the Assembly to intervene whenever in our opinion one of these human rights (among which we must include common justice and also, of course, social justice) is not entirely respected.

49. I must not go on. I think you have all seen the danger of the situation, the risks besetting the course into which we are being lured, and I hope that when the time comes to vote each one of you will first reflect. But let us for a moment admit that my legal argument is wrong — which it is not — and that the Assembly has the right to discuss these problems. We must still ask ourselves whether the idea is sound politically; whether, by discussing these problems here this afternoon, we are going to help the Arab people, the Algerian people, and also the French Government; whether we are going to facilitate its task; whether, after a week (or a month, for I do not know how long it will take) of the type of debate of which we have had a foretaste, it will be easier for the French and the Algerians to come to terms.

50. I have listened to words which I must call odious. Someone suggested that those who proposed to vote for the motion before us were against the Algerian people and, what is more, that they supported the advocates of continuing colonialist methods, the use of force and violence. I can find no other way to describe such an argument than to call it odious.

51. I believe that we all desire the same thing. Is there a single one among us, whatever the legal school of thought to which he belongs, who is not anxious about events in Algeria? But I doubt if I exaggerate when I say that it is first and foremost the French who are anxious about the events in Algeria. I assume that they are aware of the vast and difficult problem confronting them. Let us put the most optimistic construction on things. After three or four weeks of discussion, what could we say? We might say that the Algerian problem disturbed us; we might ask the French Government to take urgent steps to deal with it; we might ask it to seek a peaceful solution, acceptable to the majority of the Algerians. That is the most that we could do. The French representative has not communicated his speech to me, and I am not empowered to speak on his behalf. But I should be very astonished if he did not tell us shortly that this is exactly what the French Government intends to do.

52. What then is the object of all this debate? Why must all this political wisdom, all this human sagacity, be mixed with so much emotion, so many insults, so many wounding remarks, only to lead in the end to the simple solution?

53. From the political point of view, there is one thing which strikes me and indeed astonishes me somewhat. There are delegations here who say: "We speak on behalf of the Algerians". Out of courtesy, I am ready to believe that. Politically, I am not so sure. Have you not shown undue haste in giving yourselves this mandate? Is there not some danger, even, in thus taking it upon yourselves to defend a political group or a human group before the Assembly? What would happen if, instead of being confronted by a dispute of which it can be said that the two sides are of different races, we were faced by a conflict which set two different classes in opposition? And what would happen (I am not speaking on my own account, because coming from me it would be of no great importance) if, in this Assembly, persons more powerful than I took the same line and said: "There are other human groups, there are social classes, which are badly treated in their respective countries; we are appointing ourselves their advocates, and we have come to plead their cause before the bar of this Assembly?" Is there no danger in starting along such a road?

54. What do we wish to do? We do not, I take it, wish to substitute ourselves for the French and the Algerians. That would indeed be impossible. I intend to speak frankly. Perhaps there are some who wish to exert pressure on France. It is possible, I think, supposing it to be necessary, to imagine a course of action entirely outside of this Assembly — which would consist in saying to the French Government, to the French people, to the French Parliament: you see the feelings which are being aroused in the world; but we understand you (in a moment I shall say a word about France); we know what you have achieved in the past and what you are capable of achieving. It would certainly bring great relief to the world as a whole, and undoubtedly to this Assembly, if it were soon possible to settle the Algerian problem in a progressive and humane manner.

55. I am sure not only that the French Government would listen to this advice from its friends, but that it would do all in its power to follow it. But to exert pressure on France by the means which have been used here, by pointing the accusing finger at that country and using violent, unjust, subjective and emotional language, without understanding of France's difficulties; by stressing only the burden, possibly a heavy one, inherited from a lengthy history, without the will to understand and to consider all aspects of the problem... I do not believe the French Government is, strictly speaking, either very nationalist or very chauvinistic, but neither do I believe that this is the right way to approach it, to try to influence it.

56. It remains for us, then, to hope that we may act as a kind of mediator — though I am not using the word in its legal sense. In this connexion, I should like to say that the tone which has been used, fortunately not by all, but by the majority of the delegations whose members have spoken from this rostrum, has shocked me profoundly. A few months ago, at San Francisco, I spoke of the Bandung Conference. I paid a very sincere tribute to the spirit which, to my mind, was displayed there. It seems to me that the States represented at

Bandung, when they were met together among themselves, and probably when they felt the strength and power of their common interests, not only behaved as a whole very reasonably, but at certain outstanding moments showed great loftiness of thought. And what I found particularly heartening was the impression which I gathered that all idea of systematic hostility (to use no harsher term) towards the European peoples or the peoples of the white race had been dropped. Tomorrow, when I take the aeroplane to return home, I think I may say that this impression will have been somewhat weakened.

57. Fellow representatives, and I would even say my friends — for why, when speaking to the African-Asian countries, should I not dare to say my friends? — I have no racial prejudices; I believe in the equality of peoples and the equality of men. I am ready to admit, indeed I do admit, that in the past of the European peoples there are many things to be changed; if we wish to continue with this great human community which we planned and founded at San Francisco there are many scenes from the past which must not be allowed to recur and which were better eliminated. I firmly believe that the peoples of Africa and Asia can help us, and help us effectively, to rid ourselves of this too heavy historic heritage.

58. But in saying that, may I not also ask you to recognize that we are nevertheless already on the right road, and that enormous progress has been made in freeing the colonial people from what may be called the colonialism of the nineteenth century or the first quarter of the twentieth? Perhaps you may answer that the movement is not going fast enough. Gentlemen, in many of your countries revolutions have occurred and new régimes have been established. With all due respect for the efforts which you have made, may I, without offence, ask you whether you have succeeded in ridding yourselves of the past in the space of a few years, or whether, to settle outstanding questions, you do not need a certain time, to proceed by stages, with prudence and moderation?

59. What is true of your domestic affairs is true also of our international life. But the difference between your position and ours is that, instead of criticizing you, instead of arraigning you at the bar of I do not know which international court, we understand you and would be most willing to aid you in speedily overcoming your difficulties.

60. In my opinion, international life can only be based on two great virtues: the spirit of understanding and the spirit of moderation.

61. I have no wish to give the impression of speaking to you like an old man; but I do speak as a man who can now begin to look back on an accumulation of experience. I have seen that there are no international questions in which one country is entirely right and the other entirely wrong. The truth is quite otherwise. The truth is that in international life we have to deal with questions which have been pending for many long years, with complicated issues in which conflicting interests frequently clash, and therefore the first virtue of the politician who aspires to international politics is to try to understand.

62. The second virtue is moderation. Nothing is achieved in international affairs by rushing headlong to extreme and exaggerated solutions. True international policy — I am not ashamed to proclaim it — is an inter-

national policy based on compromise. It is not by using extravagant and unjust words, nor by giving undeserved lessons to others, that one succeeds in gaining acceptance for one's ideas.

63. What, then, is to be done? The answer is simple: we must trust France. Does France deserve our trust? I was shocked indeed to hear it said from this rostrum that France was imperialistic, colonialist, bloodthirsty and cruel. All these adjectives have been used. I am not the self-appointed advocate of France, although it is not without pleasure that I would accept such a task, which I should deem an honour. I do not say that all the pages of French history are equally fine. But where is the country whose history has pages that are equally unblemished throughout all the centuries? What I venture to say, and what must be said if some measure of justice is to be restored, is that perhaps no other people in the world has so many fine pages in its history and that, before we attack it and arraign it before an international court, we should be objective enough to recognize this fact. Certainly no other people has bestowed on mankind so many and such diverse benefits, intellectual, scientific and political; and, before condemning such a people outright in thoughtless terms, the critics should pause to reflect upon this long tradition of a glorious past.

64. I say that we must trust France because of its past, because of what France is; but I would add that we must trust France because of what it is achieving.

65. I would beg you to weigh the consequences of what you are about to do. If you do not follow the counsels of prudence, you are going to drive France to extreme acts, and possibly to very serious acts. Let us suppose that the argument opposed to mine prevails. What is the very least that France can do? It is what all of us would do if we were in France's position. After defending her case as France has done, after having asserted with deep conviction that the matter was one of domestic jurisdiction, what is the least that we could do? It would be, not to submit to the strange verdict of this Assembly, but rather to say: "Continue the procedure you have started, but without me. I shall not even be there to defend and explain myself. I contest your jurisdiction, and I am leaving." And whatever you then decide without France will be nothing more than beating the air.

66. Can such a development profit the Assembly? Are we to spend our time beating the air? Is it thus that we shall enhance our prestige? Most certainly not.

67. And when I say that this is the least that France can do, it is because I have no wish to allude to other possibilities, which would be infinitely more serious and might well have disastrous consequences for the very existence of this Assembly and this Organization.

68. I shall now close, with apologies for taking so much time, and for perhaps not having been quite so moderate as I had intended.

69. I have heard much talk in this Assembly of the spirit of Geneva. Like all of you, I rejoice at the spirit of Geneva, the new spirit which prevails in international politics. But perhaps before we become too much imbued with this expression "the spirit of Geneva", we should do well to see what lies behind it.

70. Behind the spirit of Geneva lies first of all one thing — and I hope that the four great Powers will allow me to say this; it is one of the liberties I am accustomed to take — I refer to the good example which

those Powers are setting us. But what would be the use of this good example if the smaller Powers, instead of following it, themselves remained attached to outworn diplomatic methods which in their latter years have caused us so much harm, and were founded on misunderstanding, violence, emotion and the harshest of spoken words?

71. What is the spirit of Geneva? It is a spirit of tolerance and moderation. It is a sign that the great Powers are at last drawing a clear distinction between diplomacy and propaganda. As a body we were moribund, because for many long years, especially on the platform of this Assembly, two absolutely different ideas, diplomacy and propaganda, had been confused.

72. The spirit of Geneva is the will to draw closer, step by step; it is the will to forgo spectacular objectives and spectacular speeches, and to be content with more modest, but genuine successes. That is the spirit of Geneva. I would say it was also the spirit of Bandung. It is, I assure you, the spirit in which we in Europe now meet to discuss our problems.

73. Is this Assembly, here in New York, to offer the paradoxical spectacle of becoming a refuge for ultra-nationalists, for exaggerated language, for a kind of international demagoguery? If this strange paradox were to come to pass, then — I grieve to say it, but I do so in all seriousness — the wave of disaffection, which has already swept over the United Nations since San Francisco, cannot but grow broader and stronger, and the day will come when the very fate of our Organization will be at stake.

74. The PRESIDENT (*translated from Spanish*): I call on the representative of Iraq on a point of order.

75. Mr. AL-JAMALI (Iraq): The head of the Belgian delegation, in his passionate speech, made several references and allusions to some of the representatives who have spoken, among whom I am included. I should like to ask the President whether he would kindly permit me to make a reply now, or perhaps he would prefer that I make my reply after the list of speakers is exhausted.

76. The PRESIDENT (*translated from Spanish*): It was agreed at this morning's meeting that the list of speakers would be closed at 3.30 p.m. The list is therefore now closed. When the present list of speakers is exhausted the representative of Iraq may ask to exercise his right to reply, and I shall gladly grant his request.

77. Mr. LUDIN (Afghanistan): The delegation of Afghanistan is one of the fourteen delegations which have requested that the question of Algeria be inscribed on the agenda of the tenth session of the General Assembly. This action was taken by my delegation after the most careful study of the available data and information pertaining to the problem, and in pursuance of the purposes and principles of the United Nations Charter.

78. The primary purpose of the United Nations is the maintenance of international peace and security. Immediately following that is the development of friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples and the taking of appropriate measures to strengthen universal peace.

79. The emergence of humanitarian principles was the necessary outcome of the last war. The ready acceptance of them by the Members has provided the spiritual and moral foundation of the United Nations.

80. In the new social and political order which was born out of the sufferings and pains of the Second World War, there is no room for either the assertion or the assumption of any kind of superiority or claim of sacred mission. Co-operation and assistance, in order to be effective and acceptable, must be rendered on the basis of complete equality of peoples and nations.

81. The spirit of this new era has given rise to the emancipation of the colonial peoples in Africa and Asia, and their emergence into fully free and independent sovereign States. The mighty tides of freedom have swept away every obstacle in their path, from Indonesia in the Far East to Libya in the West. Free nations came into being, nations which play important roles in the affairs of the United Nations, especially in the restitution of the right of freedom and independence to those people who have not yet attained them.

82. The tides of freedom gather momentum. They cannot be stemmed. Unfortunately, however, obstacles have not yet been removed from the road to freedom and self-determination in some areas, especially along the borders of the French colonial possessions in North Africa. We may respectfully submit that this seems to us to be a waste of the much-needed French national resources and national energy which could be utilized to the greater benefit of France and of the United Nations on some worthy causes.

83. It is clear that the feelings of frustration and dismay, which have been engendered among the peoples of North Africa by these obdurate policies, have alienated those peoples from France and have made them hostile to its Government. In consequence of the outbreak of hostilities in Algeria, it is of paramount importance that a way must be found to stop the bloodshed and loss of property. This struggle has continued since November 1954.

84. The delegation of Afghanistan feels that the disturbances in Algeria are serious. They are a breach of peace and tranquillity of an alarming magnitude in that area. They have occurred because the people of Algeria have claimed the free exercise of their right of self-determination and the establishment of a State of their own, and because France has been reluctant to fulfil the obligations which we believe it has under the Charter of the United Nations.

85. Because of the unyielding attitude of the French Government to hold Algeria as an integral part of France, even at the cost of protracted military and repressive measures, on the one hand, and of the attitude of the Algerian people, who insist on establishing a separate national State of Algeria, on the other hand, it seems that much strife and bloodshed and loss of life and property may ensue.

86. My delegation feels that the General Assembly of the United Nations should include the Algerian question in its agenda. The United Nations is a centre for harmonizing the actions of nations in the attainment of common ends, one of which is promotion and encouragement of respect for human rights and for the fundamental freedoms for all, without distinction as to race, sex, language or religion. Here, in the Algerian question, preservation of peace and the restitution of human rights as well as the right of self-determination of peoples are involved, which are of primary concern to this Organization.

87. The delegation of Afghanistan listened with close attention and keen interest to the statement of the repre-

representative of France, Mr. Alphand, in the General Committee on Thursday, 22 September [103rd meeting], when he requested, on behalf of his Government, that the Committee decide against the inclusion of the question of Algeria in the agenda of the General Assembly. Mr. Alphand argued that, in the view of his Government, the Algerian affairs were essentially within the domestic jurisdiction of France and therefore outside the purview of the United Nations Charter, and that the General Assembly and the United Nations are not justified to intervene in them. Algeria, he said, had been united to France by the Ordinance of 1834 and since then had formed an integral part of metropolitan France, on equal footing with Ile-de-France, Brittany, or Auvergne so that every Algerian, whether Moslem or Christian, was a French citizen. The representative of France added that, when a citizen of Algeria reached the age of 21, he became an elector. He went on to say that the Algerian departments were represented in the National Assembly and in the Council of the Republic on an equal basis with those of continental France.

88. After setting forth these arguments, Mr. Alphand concluded that the case of Algeria clearly fell within the provisions of Article 2, paragraph 7, of the Charter and, therefore, was not a subject for discussion in the General Assembly of the United Nations. To these arguments of the representative of France, the delegation of Afghanistan has given its most careful consideration.

89. Regarding the competence of the General Assembly to discuss the question of Algeria, the Foreign Minister of Egypt and other delegates who have spoken before me in favour of inscription of this item, advanced an imposing array of convincing arguments from the records of the United Nations Organization itself. In the opinion of my delegation, their cogent arguments proved that Article 2, paragraph 7, of the Charter did not apply in the case of Algeria. In the interest of brevity, I do not propose to repeat those arguments.

90. As to the argument that Algeria is an integral part of France and that it had been made so by the Ordinance of 1834, with all due respect to the delegate of France, the delegation of Afghanistan submits that such unilateral assertion by one State that it has assimilated another people and its territory — a people which is separate and distinct ethnically and culturally, and has historical characteristics and attributes of its own — without that people freely expressing its own will in favour of such union, is contrary to the spirit of the Charter. Recognition of such a forcible union is an utterly untenable thesis. The delegation of Afghanistan feels that the final goal of the Non-Self-Governing peoples is self-government and self-determination.

91. The history of Algeria during the past 120 years is a living proof of the fact that the Algerian people did not submit peacefully to the domination of France. Quite on the contrary, the people of Algeria have continued their heroic struggle for freedom and independence and for the redemption of their national soul up to the present moment.

92. France has been able to maintain her domination over Algeria only by the preponderance of military power and military resources. This, in our opinion, does not lend legitimacy to the claim of France.

93. The attributes of citizenship, which the representative of France claims to have bestowed on the Algerian Moslems, seem to be rather narrow in scope and limited in application. In Algeria, the Moslems do not enjoy

equality of rights and opportunities with the French colonists. There are inequalities in political representation, in economic opportunities and in the fields of health, education and culture.

94. Because of these inequalities which are fostered and maintained by the present régime in Algeria, the spokesmen of the Moslem inhabitants of that country have expressed a desire that the Government of France should have been required to conform with Article 73 e of the Charter, by transmitting to the Secretary-General of the United Nations "statistical and other information of a technical nature relating to economic, social and educational conditions" in Algeria.

95. I refrain at this stage from entering into the details of the grievances and the complaints of the Algerian nationalists on which they base their claim that the political assimilation and integration of Algeria in the French Republic is contrary to the interests of its people and utterly unworkable. To these arguments other delegates have alluded. We all understand that a case for serious consideration and deliberation by this august body does exist. It is justifiable, and necessary, therefore, that the question of Algeria be inscribed in the agenda.

96. My Government was one of the twenty-nine Governments which participated in the Bandung Conference. The question of Algeria was discussed in Bandung and the right of the people of Algeria for self-determination was unanimously recognized and supported. The twenty-nine nations which were represented in Bandung constitute a large segment of humanity. Aside from the participants of the Bandung Conference, there are other Member nations represented in this august Assembly which have traditionally supported the cause of fundamental freedoms and the principle of the right of self-determination. By this token, an overwhelming majority of the peoples of the world support the cause of Algeria and the inscription of this item in the agenda of the General Assembly. Expression of a hope may be permitted that the General Assembly in its voting will reflect the attitude of that majority.

97. My delegation does not share the misgivings expressed by some delegates that the discussion of this item in the General Assembly would do harm to the orderly progress of this matter. My delegation believes the contrary to be true. We believe that the discussion of the item in the General Assembly would do much good and that it would help to find a solution for the problem. The resolutions [611 (VII) and 612 (VII)] which the General Assembly passed at its seventh session in connexion with the questions of Tunisia and Morocco helped in preparing the ground for negotiations to take place between the two parties.

98. The resolutions of the General Assembly carry with them the moral verdict of the United Nations and of humanity. Even the mighty States cannot afford to ignore them. The discussions and decisions resulting from them have the effect of strengthening the hands of far-sighted, courageous and constructive statesmanship.

99. The delegation of Afghanistan, therefore, earnestly appeals to all the delegates in this august Assembly to cast their votes in favour of inscribing the item of the Algerian question in the agenda of the tenth session of the General Assembly.

100. Mr. ULLRICH (Czechoslovakia): A number of delegations have already spoken on the issue of the inclusion of the question of Algeria in the agenda of the

present session. The Czechoslovak delegation only wishes briefly to state its position in this respect. We shall restrict our remarks to the procedural aspect.

101. The request for the inclusion of the question of Algeria in the agenda of the General Assembly has been put forward by fourteen Member States representing an important part of the United Nations membership. Nor is it possible to ignore the fact that at the Bandung Conference, the significance of which has been stressed by many speakers in the course of the general debate, twenty-nine Asian and African States expressed themselves in favour of the right of the nations of North Africa, including Algeria, to self-determination, and addressed an earnest appeal to the French Government calling for a peaceful settlement of the question of Algeria.

102. The United Nations cannot, in our view, refuse to hear the voices which have the support of the nations of two continents representing the majority of mankind. The Czechoslovak delegation is convinced that a calm and objective consideration of this issue cannot harm the interests of any of the parties concerned; and that, on the contrary, it can contribute to a just and peaceful settlement.

103. The Czechoslovak delegation, therefore, does not concur in the recommendation of the General Committee that this question should not be included in the agenda, and it will vote against that recommendation.

104. Mr. LAWRENCE (Liberia): The delegation of Liberia desires to intervene in this debate in order to make clear the considerations upon which it has based its decision to cast its vote in relation to the recommendation of the General Committee against the inscription of the question of Algeria in the agenda of the present session of the General Assembly.

105. As one of the founding signatories of the United Nations Charter, Liberia finds it hardly necessary to reiterate its unswerving adherence to its principles and purposes, especially with reference to Article 2, paragraph 7, which prohibits the United Nations from intervening in matters which are essentially within the domestic jurisdiction of a Member State.

106. The delegation of Liberia holds the view that the inscription of the question of Algeria in the agenda of the present session would not be an intervention in the domestic jurisdiction of a State since such inscription would merely permit a free and open discussion of the issues involved, and the most the United Nations could do would be to suggest the urgent necessity of finding an early solution in an amicable and satisfactory manner. Such a suggestion from the General Assembly, we submit, would in no way be an interference in a State's domestic jurisdiction. Rather, it would be an expression of our concern to remove any tension among the peoples of that area which might prove a threat to world peace. We are of the opinion that, in the same manner that a fountain of water purifies the air about it, a dispassionate discussion and an airing of the issues involved in the Algerian question would tend in large measure to relax tensions and bring a sober atmosphere into this consideration.

107. For the foregoing reasons the delegation of Liberia will vote against the recommendation of the General Committee and in favour of the inscription of the item in the agenda.

108. Mr. LODGE (United States of America): The United States delegation believes that the Assembly

should bear in mind certain relevant factors as it decides whether to inscribe in its agenda the item entitled "The question of Algeria". Remembering that the vote on the inscription of an item is without prejudice to the ultimate question of the Assembly's competence, we must nevertheless, in this particular case, take into account the following considerations.

109. Unlike Morocco and unlike Tunisia, which are French protectorates, Algeria under French law is administratively an integral part of the French Republic. We have noted that in the explanatory memorandum [A/2924] which has been submitted by the Members which have proposed the item relating to Algeria it is stated that:

"There is an imperative need for negotiations between the Government of France and the true representatives of the Algerian people",

and that consideration of the Algerian question by the General Assembly would facilitate a solution by making the need for negotiation evident.

110. We have noted, further, that reference is made to the right of the people of Algeria to independence, as well as to the concern of the international community for a prompt solution of the Algerian problem, a concern to which the French Government is claimed to have failed to respond.

111. This memorandum indicates clearly that what is sought by the sponsors of the item is the sanction of the General Assembly to a course of action intended to bring about fundamental changes in the composition of one of the United Nations' own Members — that it, the French Republic. If it does not mean that, it does not mean anything.

112. The United States believes that the proposed item, viewed in the context of this action which it is suggested should be sought in the General Assembly, falls within the provisions of Article 2, paragraph 7, of the United Nations Charter.

113. Let me say this final word. There is grave danger to the future of the United Nations in taking up questions whose consideration would conflict with the provisions of Article 2, paragraph 7. We definitely think that this danger is inherent in the pending question. Of course, this Assembly can vote as it wishes, but we should be completely clear in our own minds as to just exactly what it is that we are doing. For these reasons, the United States will vote to support the recommendation of the General Committee that this item be not included in the agenda.

114. Mr. MENON (India): In presenting the views of my delegation on the present discussion of the inclusion or non-inclusion of the question of Algeria in the agenda, we desire, in order that there should be no misunderstanding about it, to restate what we are addressing ourselves to. This has become all the more necessary in view of some of the speeches which we have heard.

115. The item proposed for the agenda is "The question of Algeria". There are no draft resolutions; there are no proposals in regard either to condemnation of the French policy or in support of Algerian independence; there are no draft resolutions which call for the United Nations to take any action by way of intervention or to call upon the French Government to submit to United Nations authority in this matter. The purposes before us are, therefore, extremely limited and specific; that is, to discuss the question, to take into consideration a

"situation" which is very clearly set out in the Charter as different from "disputes" or different from war, conflict, etc. That a "situation" exists in Algeria is not denied by anybody, and all that we have before us is the consideration of the "Algerian question".

116. I deeply regret that my delegation has not the advantage of knowing the present position of the French delegation in regard to various aspects of this matter and, therefore, it would be wrong for me to anticipate what it is going to say, apart from what we have already heard. We had the benefit of its views in the General Committee [103rd meeting]. These views are precisely set out and we have the advantage of the exposition of those views.

117. Before I address myself, not to the merits of the question but to the merits of the item before me, I want to say first of all, in order that there should be no doubt as to the attitude of my Government, that we are not here in any way to condemn the French people, the French Government, or its delegation. We shall not implant in the statement which I am making before the Assembly or in our approach to this question an attitude either of hatred, antagonism or of conflict. We are participating in this in order that a very difficult and unfortunate position in Algeria might be assisted to be resolved. Those who disagree with us can question the wisdom of the course which we are taking. They may even question the estimate and the calculations which we make, but I should like to assure the French delegation that, so far as we are concerned, we do not approach this problem either with disregard for the great traditions of France, or for the contribution which it has made through the ages to human liberty, nor do we forget the great contributions which it has recently made in resolving the long period of imperial war in Indo-China and the sacrifices which it has made in order to sustain the cause of liberty. Therefore, if we do approach this problem, it is in the sense of trying to find peaceful solutions in order to bring a new element into the situation. That is to say, the attention of the United Nations being attracted to it. This is not necessarily — and certainly, in our view, it is not — a factor that promotes conflict, but rather a factor that comes in the way of the two sides or the elements that are in conflict at the present time.

118. I should like to say, with great respect, that there is no question, again, of my delegation wanting to set itself up as an authority on the Constitution of France. We are not here — and I make bold to say that the United Nations or this Assembly is not competent — to call France to order for the violation of its Constitution, but the question of the Constitution or other French instruments comes in so far as they are the basis of the position taken up by the French Government. They become part of the record in the case, so to speak, and that is the only way in which they come in here.

119. The main arguments in this matter fall into two classes: one, that we should not, we cannot, discuss this, we have no competence, we are not allowed, we have no authority to discuss it; two, that it is unwise for us to discuss it. The question of our competence is based upon a number of considerations. First of all, there is the aspect which tells us that this territory is part of metropolitan France, that it, in fact, is metropolitan France. The other — and that again is based upon a number of arguments to which I shall refer in a moment — is that we are precluded, by the provisions

of the Charter and the purposes of the United Nations, from discussing it.

120. So far as the first argument is concerned, I should like to say here that my delegation would have confined itself to a very few brief observations on the subject, but for the fact that the whole issue of the competence of the United Nations not to pronounce, not to intervene, not to take into consideration what we regard as a colonial question has been challenged. That being so, we have to state our position without equivocation.

121. The first part of the matter, stated by the representative of France before the General Committee, which was not a private discussion, is that this territory is an integral part of France, and this has been restated so many times from this rostrum today and previous days by numbers of representatives who support the position of France against inscription; and the attitude is that since it is part of France, an Algerian is a Frenchman. Here, again, may I interpose and say that we lived for many years, many centuries, as a dependency. We were called at one time British subjects. That was bad enough, but nobody dared to call us Englishmen, and it is to their credit — even though Lord Macaulay said: "Though they have the blood of Indians running in their veins, they must think the thoughts of the English." But they never told us that we should call ourselves Englishmen. So, to an Algerian or to anybody who is not French, to be called a Frenchman is not a great honour, in our humble opinion.

122. The question of this "metropolitan" idea is based upon three main considerations. The first is, I suppose, the set of instruments that make up the capitulation of Algeria. This is an ancient people and place going back almost to the pre-Christian era. It has been conquered, it has been populated and, therefore, I think that we should be very immodest if we were to think that the whole history of Algeria has been written and that, therefore, it will be an integral part of any other territory for a long time. And yet, its culture, its race and its ego have remained distinct right through the ages. This territory contributed great men to the human race. It saw various empires come and go. Therefore, when we talk about this metropolitan question, first of all it is based upon three sets of circumstances. One is the historical circumstance, whereby it has been argued in various places that this territory was surrendered to France by the previous rulers.

123. I have been at pains to discover what sort of surrender took place. First of all, I want to argue that an instrument of surrender is not a treaty. It is not a treaty inasmuch as there is no free will on two sides. So, even if there were an instrument of surrender, the Charter does not anywhere recognize that an instrument of capitulation, an instrument of surrender, is part of a treaty. But, in any case, there are large numbers of these instruments and I shall take only the one that lies before me; and that is the one dated July 1830, which is the main document that is usually relied upon. There are six articles in this, and there is no article that speaks of the surrender of Algeria. All it says is that certain forts were surrendered. That might be the territory of Algeria, or it might be anything else, but at any rate it is not necessary to be legalistic about it.

124. As a country that opposes colonial rule in all forms and believes in the freedom of peoples and the right of nationalities to have their own form of government, even if this instrument of surrender were a

surrender of the whole territory, we would say that it was under duress and as the result of war.

125. The second argument is of conquest. Now, with great respect, I say that conquest does not establish a right. Conquest does not confer rights. Conquest for the people conquered is at best a tragedy. It is not a right. Conquest does not establish any rights whatsoever. Conquest confers an obligation upon the people who are conquered and that is to terminate that conquest; that is all it involves. The second, therefore, is the right of conquest. The Charter does not recognize anywhere that its Members should hold on to their possessions by right of conquest.

126. The third part is where we have been challenged as regards the ground on which we stand. Here again, I submit with great respect, to you and to the French delegation, that we do not put ourselves in the position of being the interpreters of the French Constitution or whether it is right, wrong or otherwise. We accept the French Constitution as the foundation of the French Republic and, what is more, as being based upon principles which are not only honourable to mankind, but which have contributed a great deal towards human civilization. Now, it has been argued that the difficulty with regard to this matter is that, different from Morocco and Tunisia, Algeria is really part of French territory. I shall not again refer to the question of the Frenchman and the Algerian. Therefore, if I refer to these articles of the Constitution, it is not with a view to submitting the French Constitution to the scrutiny of the Assembly, but merely because it has been adduced in support of the other view.

127. The first article of the French Constitution says: "France is a republic, indivisible, secular, democratic and social." In our humble interpretation, this France refers to 200,000 square miles of territory which is north of the Mediterranean. Therefore, the France that is "indivisible" does not include Algeria.

128. Article 3 says that "National sovereignty belongs to the French people", not to the Algerian people. The most important part of this argument, in terms of the view that Algeria is part of metropolitan France, is denied in article 60, which states:

"The French Union shall be composed, on the one hand, of the French Republic, which comprises Metropolitan France and the overseas departments and territories..."

It is beyond argument that Algeria consists of, I believe, three overseas departments. Therefore, when you say that the French Union consists of the French Republic, which consists of metropolitan France and the overseas departments, there is a distinction between metropolitan France and the overseas departments. Therefore, by inference, Algeria, under this Constitution, is not part of metropolitan France.

129. Article 66 says:

"The Assembly of the French Union shall be composed half of members representing Metropolitan France and half of members representing the overseas departments..."

Article 66, in terms of representation, shows a distinction between metropolitan France and the overseas departments. I submit that Algeria consists of these overseas departments, and therefore there cannot be any argument that Algeria is part of metropolitan France.

130. Article 67 states: "The members of the Assembly of the Union shall be elected by the regional assemblies

for the Overseas departments and Territories; for Metropolitan France, they shall be elected two-thirds by the National Assembly representing the home country and one-third by the Council of the Republic representing the home country." So there is a distinction between the mother country and the overseas departments.

131. Article 72 states:

"Legislative power with regard to penal law, civil liberties and political and administrative organisation in the Overseas Territories, shall rest with the Parliament.

"In all other matters French laws shall be applicable in the Overseas Territories only by an express provision to this effect..."

No, you could not have it that it is metropolitan France, like either Savoy or Nice, and say that only under special provisions would it apply.

132. Article 73 states:

"The legislative régime of the overseas departments" — that is, Algeria — "shall be the same as that of the metropolitan departments..."

The question here for us is not whether one is better than the other. What I am trying to establish by article 73 is that the French Constitution conceives of these as two separate things: the metropolitan France of 200,000 square miles of territory and the other, the Overseas Departments.

133. Article 80 states:

"All nationals of the Overseas Territories shall have the status of citizens, in the same capacity as French nationals..."

Again, we see a distinction between the citizens of France and the nationals of France. Therefore, an Algerian is not a national of France. He is in the same position as we were as British subjects, but since France is not a monarchy he is not called a subject; he is called a citizen. That is the position we see so far as the metropolitan argument is concerned.

134. The second set of arguments adduced is that it is contrary to the principles of the Charter. Here I am sure that the most orthodox pundits on the Charter would tell us that the law must be respected — and we do not join issue with them. We could not say more: the law must be respected. But the law must be interpreted as the law, and the law is never a statute alone. The law is all the circumstances that go behind it as well, and the law, therefore, so far as the United Nations is concerned, must go back to the Atlantic Charter.

135. If it were true, as the representative of Belgium pointed out here, that the United Nations is founded upon the basis that things should be what they are, that is to say, when people came here, we knew what they were going to be and what they were not going to be, then certainly it does not apply to us because when we came here we were not an independent country, and we would not like to go back to that.

136. The Atlantic Charter states that the rights of all peoples to choose the form of government under which they will live will be respected, and they wished to see sovereign rights and self-government restored to those who have been forcibly deprived of them.

137. I am free to confess — I not only want to confess but I want to state — that neither the Atlantic Charter nor the provisions of self-determination automatically confer upon this Organization any right to enforce self-

determination. But it certainly does say that we wish to see people live under the form of government they want, and that is all we are saying. After all, all that the Assembly can do is to express its views and wishes, and make its appeal. I will come to this in a moment.

138. In the Moscow Declaration, when these ideas of the United Nations were developed afterwards during the period of 1943 for the first time in human history, the world organization adopted the ideals of the French Constitution; that is to say, it incorporated into the foundation of the United Nations the conception of human rights which the French had accepted over 150 years ago. Therefore, to argue that we must not come here and talk about human rights is the wrong thing. It is quite true that in all our countries, including mine, we violate human rights. But that is no argument for saying that we should not draw attention to its violation. After all, the volume and context of violation comes into it. However, I am not at the present moment going to argue that there is a violation of human rights or that there is not such a violation.

139. There is a situation in Algeria which calls for the attention of this Assembly. In regard to the Charter, not only should we go back to the foundation of the United Nations, but we should also refer to its Articles. Great reliance has been placed on Article 2, paragraph 7. I want to say that my delegation yields to none in the desire to adhere strictly to the contents of this Article, but my submission is, in the request we are now making to the Assembly to inscribe this item, that we are not violating Article 2, paragraph 7. We are not arguing the question as to whether or not Algeria is a part of metropolitan France. What Article 2, paragraph 7, does say is that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially...". Let us take first the words "authorize the United Nations to intervene". No authority is being sought at the present moment from the United Nations for intervention. First of all, there is no seeking of any authority. All that is being asked for is the inscription of an item, to consider a question. Authority for intervention is not being sought. Secondly, if, after inscribing the item, we discuss it, it is the submission of my delegation that the discussion of an item is not intervention. If that were so, we would discuss no subject here in the United Nations, because all of us here are sovereign States, and by definition all authority lies within the territorial limits and legislative, executive and judicial organs of our countries. So if discussion in the United Nations were intervention, it would be governed by Article 2, paragraph 7, and this would reduce the Charter to an absurdity. If there was a motion before the United Nations to take collective action, or to impose sanctions, or anything of that kind, then it could be argued as a matter of intervention. Then the question would arise as to whether the Article is applicable or not. At the present moment, there is no request for giving any authority to anybody, and there is no request for intervention. It is the submission of my delegation that discussion of an issue is not intervention. Who are we to say that public discussion of these complex problems is not likely to assist in solutions?

140. In saying that, I should like to make the position of my delegation clear. The representative of Belgium referred to propaganda having taken a back place recently. In any speeches we make here, we do not make them for the purpose of propaganda. We believe

seriously that consideration by the United Nations, or even the decision to consider by the United Nations, would be an aid to conciliation, and not a hindrance. Thus there is no intervention and no request, much less any seeking of authority to intervene. Intervention is an act, and there is no act taking place in this matter, an act which intrudes the personality of the United Nations into the territory concerned. That is not taking place. The discussion of a topic is not intervention. If that were so, the many problems which have been discussed, whether it was the Iranian oil dispute, or any other problem, would have been intervention in the affairs of other countries. Article 2, paragraph 7, continues: "or shall require the Members to submit such matters to settlement under the present Charter".

141. We are not requiring anybody to submit to settlement. We have not in any of these questions, whether it concerns South Africa or Tunisia or Morocco or West Irian. What we have said is: please try to get together in order to resolve these problems. We should like these things to be considered in terms of the provisions of the Charter and of the Universal Declaration of Human Rights. We should like you to take into account the fact that people are disturbed by this and so on.

142. Therefore, if Article 2, paragraph 7, is not attracted, that would not establish a case for arguing that this is within the Charter. It is not sufficient for anyone who asks for inscription to say that Article 2, paragraph 7, is not attracted. We have to establish that other provisions are attracted.

143. The difficulty in this matter is that if one makes a careful study of the Charter one finds that too many Articles are attracted and it would take too long a time to argue the matter of them all. The Articles to which we should like to draw attention are in general Articles 11 and 14. Article 14 states in part that "the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin". If the words "regardless of origin" have any meaning, it is that there is a general power to use the good offices of the Assembly for these purposes.

144. There are other Articles, for example Articles 11 and 35. Article 35 states in part "Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34...". In Article 34, what is referred to is "whether the continuance of the dispute, or situation is likely to endanger the maintenance of international peace and security", and "which might lead to international friction".

145. A large volume of opinion has been expressed here of concern about this matter. This opinion did not necessarily take one side or the other. The final *communiqué* in this regard of the conference of Asian-African countries representing two-thirds of the world's population counts for something, even if this two-thirds of the world's population are Asians and Africans. Therefore, to ignore that position would certainly not contribute to international conciliation. I do not say it would lead to friction. There is no certainty that it would; but Article 11, Article 14, or Article 35 are attracted under the situation.

146. Before I leave this part, there is another aspect to which I want to draw attention. I base myself on the position that I do not accept the view that Algeria is anything but a part of the French colonial empire. I admit that French sovereignty in the sense of French

authority has been established over this territory. But there is no distinction in political thinking or in jurisprudence between French Morocco and Algeria. In either case, according to the Charter of the United Nations, having accepted the Universal Declaration of Human Rights and, if I may say so with great respect, according to the French Constitution, having reiterated after deliberation the principles of human rights, sovereignty really resides in the people. It resided in the rulers of Algeria and their subjects, the people, before the conquest and before the capitulation. What the capitulation actually did was to superimpose French authority over them and, as a consequence of the superior power of French arms, the sovereign powers of the Algerian people went down. But so long as you believe in the rights of men and all that is written in the various constitutions, including that of the United States, that these are inalienable rights, you can never extinguish them. They can lie dormant for a time but the people then become sovereign again when their national movements and the will of the people assert themselves. Therefore, what has been accomplished in Algeria in terms of political philosophy was the same as in Morocco; that is to say, in Morocco, French authority, by virtue of the protectorate that has been established, has the effect of extinguishing the vitality and the functioning power of the Moroccan people. This was not to the same extent as in Algeria. There is a difference in quantity but there is no difference in kind. Therefore, sovereignty, which is lacking in the Algerian people, has to be recognized in terms of human rights.

147. But this is not the issue at the present time. It is only argued simply to stress the position that it is not a question of intervening in the affairs of a sovereign State. It is merely discussion on what is a plain, straightforward colonial question. If we cannot discuss this here, what are the consequences? This also reminds me of the statement of a great English statesman: "If the people do not say anything, then they are quiet. If they do say anything, then they are troublesome. In either case you need not listen to them."

148. Are we still living in the days of Metternich and Talleyrand and Castlereagh? No. Are we bound by the *doctrine légitimiste* whereby this great international Organization tries to hold the reins for the powerful people in order that those who have grievances may not come before it and there may not be peaceful reconciliation? I submit that that is not our position.

149. The position in Algeria, therefore, is that it is part of the French colonial empire, whether it is different from Morocco or Tunisia or not. Let it be said that it is only now that we are told that the Moroccan question and the Tunisian question are questions within our competence. When we brought them up, we were told that we were not competent, so we have made some progress! The difference between these issues is one of quantity and not of kind.

150. We come now to the next aspect. Even if we were entitled to discuss this and if we were not committing a breach of the rules in discussing it, should we discuss it? That is a very legitimate question to ask. Is it politically wise? What are the gains and the losses? Here, I confess, it is a matter of political judgement. So far as political judgement is concerned, our delegations must be guided by the wisdom of our Governments, by our commitments to our neighbours and, what is more than everything else, by our past history. We would be belying our liberation if we

leave behind too often those who still await liberation. That is a proposition which I am sure will arouse some thoughts in the minds of a great many people in this room.

151. When we come to the question of wisdom, what we ask is: are we likely to promote settlement or are we likely to add to friction? It is our considered view that this depends upon the way this thing is handled.

152. May I say that by inscribing the Algerian question on this agenda, it does not preclude anybody from submitting a draft resolution — I am not saying we will submit it — supporting French policy in Algeria. All we are doing is saying that we must discuss it. I think that discussion will assist in allowing some of the pent-up steam to be released without explosions. It will give the Algerian people some confidence in that other people are thinking of them.

153. It is also heartening that this is not a quarrel between Frenchmen and Algerians. I suppose that there are as many people in France who are concerned about questions in this way as we are. That is one of the good things in a liberal world: that it is not divided as between the metropolitan country and the colony and that always in the metropolitan country there are large numbers of people who support the claims of the colonial peoples. Therefore, from our point of view, the inscription of this question is a step that is calculated to assist in the process of negotiation provided that, when the discussion takes place, it takes place with the over-all objective of bringing about a settlement and not trying to find fault and apportion blame.

154. So far as my delegation is concerned, we are not a party to condemnation even when we are the sufferers. We shall use such influence as we may have towards conciliation. I beg the French delegation to accept from us that it is not our desire to make propaganda and that it is our desire to see that the colonial aspirations of peoples receive some attention so that their agitations will take the path more of peaceful lines rather than of violent ones.

155. The discussion here, therefore, is something, in our view, that is calculated to assist in this process. I would not like to say that the process of reconciliation in Morocco has either been impeded or speeded by discussions in the United Nations. But it does look as though, taking the sequence of events, there have not been many harmful effects; that is to say, there has been a general view, taken by all those concerned, of not taking extreme positions.

156. The representative of Belgium referred to the moderate positions taken up by the Bandung representatives. I have no authority to speak for anybody but my own country, and our position is still the same. We did not seek to introduce into Bandung any racial issues. We did not try to avoid the responsibilities or the examination of our own sins as against the charter of human rights or anything else. Our position is exactly the same today. We have no desire to introduce into this any racial issue. The issue is a political one. It is the issue of conflict and reconciliation. I would not say it is a question of peace and war; it is a question of reconciliation.

157. Therefore, so far as the wisdom of this question is concerned, we have no doubt that the non-inscription — and I say this deliberately — will be an act of lack of wisdom, so far as we can estimate, on the part of this Assembly. Of course, each representative, naturally,

must make up his own mind. We think the inscription of this item will go a long way towards bringing the counsels of reconciliation nearer, rather than the counsels of conflict. It will also be some assurance to the Asian and African peoples that the views expressed by them — and, of course, I am not for a moment saying that though there may be numbers of us here, and our populations may be large, our views should rule the world — will receive some consideration in this Assembly. We are not submitting anything of the kind. But they are entitled to consideration, and I think it would be some recognition of them. For those reasons, we do not question the wisdom of inscribing it.

158. Before I conclude, I want to go back to another aspect of this issue. Great attention has been paid to the domestic aspect of this question. I would not argue that any further. I submit that in this matter it is not necessary for those of us who are requesting inscription to establish a case in its finality. I will not try to do so. All we have to do is to invite the attention of the Assembly to a set of circumstances that *prima facie* call for examination.

159. Now in Algeria, what is beyond question — and I think the leaders of France and the people of France will be the first to admit, and desire to admit — is the great part they have played in the liberation of peoples. In the last war, if my memory and my figures are correct, some 175,000 Algerians, in one way or another, participated as belligerents. Soon after the war they demonstrated in favour of liberty, a familiar phenomenon to us. And while they were participants for the liberty of what is now called most of the democratic world, they themselves did not participate in that liberty. What is more, both the Algerian people and their rulers seem to have indulged themselves in acts of violence. It is not for us to sit in judgement upon them. Arising from these acts of violence there came the great troubles of 1947 when, according to popular estimates, some 40,000 people lost their lives. According to the statement in the French Parliament, some 25,000 people lost their lives.

160. The purpose of this statement is not to tell an atrocity tale, but merely to say that, even after a war of liberation, where the peoples concerned were the very peoples which have taken part in that war of liberation, the present relationship is of a character that will lead to conflict, and their suppression required the very troops that were engaged in the war of liberation in the rest of the world. As for those who are great sticklers for the Charter, I would ask them to refer to the Moscow Declaration, which says that after the termination of hostilities they — meaning the Allies — will not employ their military forces within the territories of other States except for the purposes envisaged in the Declaration and after joint consultation.

161. At that time Algeria had very largely become a territory which was very important for war purposes. I would like to say here that there is another consideration that rather takes this outside the scope of domestic jurisdiction; in other words, the inhibition about domestic jurisdiction is not attracted. Today it is admitted, and there is no dispute about the facts, that nearly 150,000 troops which are a part of the troops under the NATO system are part of the operational forces in Algeria.

162. Now to us who have just emerged from colonial conditions, when there are still colonial territories even

now as part of one's areas, it is a matter of great concern to us if the troops of metropolitan countries should jointly become sponsors for the maintenance of colonial rule, because instead of one empire we would have several in joint action.

163. That has been so in the past also, but there has been no legal sanctification of it, and after all those of us who are such sticklers for sanctity and legal forms will be very concerned about this matter. Therefore, the troops of NATO — they are French troops, they are not anybody else's troops, and the French have a right to withdraw them from NATO — but the resources and their equipment have come from the common pool.

164. Therefore, it looks as though in this day and age, when we are moving more and more towards the equality of men, when we are moving more and more towards the liberty of territories, and so on, the resources of countries that were formerly colonial countries, who will have nothing to do with colonialism in their own administrations, their resources become part of the mixture that is used in order to maintain the *status quo* as such. I would not like to say anything that would justifiably be regarded as a judgement upon the merits of this question one way or another. All we ask for is the inscription of this item.

165. In this room there are at least twenty or twenty-two States who would not be here if the "metropolitan France" argument, raised by France, were raised. The whole basis of their existence here stands challenged; that is to say, if an empire cannot be overthrown, if a conqueror cannot be displaced, if lost liberty cannot be rewon, then very few of us would have a place here.

166. If you take the American continent, there is the great United States born out of the right to assert dissent, established by revolt and sustained by the insistence upon liberty. The whole of South America terminated the hegemony of Spain; there is the United Kingdom which shed the blood of its sons in the nineteenth century for the establishment of freedoms and the support of irredentist movements all over Europe. There are those of us whose methods of struggle have been rather different, but who have endured not necessarily the privations but all the results of acts in the resistance to authority in the establishment of our freedoms. Thus, if we take one continent or another, to refuse to consider this question and to tell those people who think they have a grievance, to tell those people where the conflict between liberty and order, if you like, to put it at its worst, has resulted in violence, and as nearly in any other context, that we cannot consider it, would be regarded as a lack of responsibility on the part of the United Nations in carrying out its functions.

167. There is nothing in international law which says that even a civil war would not at times come to the state of what may be called a great conflagration where the various provisions regarding prisoners and so on are attracted.

168. It all depends upon the volume of the trouble, and it has been going on for a very long time. When we look back into recent history, have not these very same arguments been raised in other places and ultimately the way of wisdom and the way of reconciliation was found to be the basis. Indo-China is now an outstanding example.

169. Speaking of ourselves, on questions which concern my country, it is doubtful that we may have taken other courses. We have nothing but gratitude and

appreciation of French policy in regard to the small settlements on our land. Both of our countries had the wisdom and the patience to settle things by negotiation. Although circumstances vary in these cases, the basic principles are the same. The so-called sovereignty, that is really, the authority of metropolitan countries over other peoples, must terminate.

170. However, that is not the issue we are discussing now, but if there are conflicts and if those conflicts draw in international forces, and if those conflicts throw on the other side of the fence large numbers of populations over Africa and Asia, and what is more, if those conflicts are reminiscent of the struggles and of the basis of the existence of the very people who sit now in this Assembly, then it is right that we should call ourselves to order and consider that question.

171. Finally — and I do it with great trepidation — I would ask the leaders of France not to look upon this as a hostile act, unpleasant as it may be, and accept the assurance of people like ourselves that it is not our desire to add fuel to the flame or to fan the flames of conflict, but to seek reconciliation.

172. With these words I would like to say that my delegation will support the inscription of this item on the agenda.

173. Mr. PINAY (France) (*translated from French*): I did not think, after my statement at the 528th meeting yesterday that I should have to speak again in the General Assembly. Particularly serious circumstances, however, force me to do so; the turn which this debate has taken makes it my duty, and indeed my imperative duty, to make a statement on behalf of the Republic of France.

174. Everyone here knows our legal position; it was stated in detail in the General Committee [103rd meeting] by Mr. Alphand and has been presented to the Assembly very competently by several speakers, including the representatives of the United Kingdom and Belgium.

175. We are being attacked on the grounds of principle; I shall reply on the same grounds. My statement will be brief, but once again, very direct.

176. Since 1830, that is for more than one hundred and twenty years, Algeria has been an integral part of French territory and I would point out to the Indian representative that, as there has never been an Algerian state, Algeria's position is not comparable to that of India. Every international treaty that we have signed, including the United Nations Charter, applies to Algeria *qua* French territory and no one has ever thought of disputing that fact.

177. How, and with what right, can anyone come here today and question something that has been a fact of national and international life for more than a century? Much has been made of the fact that there are peoples in Algeria who differ in race, language and religion from the population of continental France and the conclusion has immediately been drawn that to be free these peoples must be separate. It is claimed that independence can be achieved only by dissociation. This is a strange argument. It is scarcely credible that anyone should dare to invoke it in the United Nations, one of whose principal purposes is to eliminate all distinction or discrimination based on race, language and religion. Are we to understand that it is impossible for men of different races and religions to live side by side in peace as citizens of the same State? Could anyone in

this forum wish to champion racial theories or provoke religious fanaticism?

178. What I have to say to the Assembly is that it would be incredible to anyone in France that the United Nations could even indirectly lend its support to such arguments. No Frenchman would understand how France could be indicted for continuing to believe that it is possible to treat a Frenchman from Algeria and a Frenchman from continental France on an equal footing.

179. There are deputies of all races in the French Parliament and Moslem non-commissioned officers, officers and generals in the French Army. Educated Moslems in Algeria occupy posts of the highest political and administrative responsibility. There is no country in the world to which the very idea of racial and religious discrimination is so completely foreign.

180. We believe, and millions of people throughout the world share our belief, that it is possible for the Algerians and us to live together in peace, equality, liberty, and fraternity closely united in a single political organization. With that understanding of human progress which they have always shown, the Latin American Republics have for many years been following a path similar to ours and have, in many cases, shown us the way. What would become of the national unity of many of our countries if States could incite disorders in neighbouring territories with a view to provoking secession?

181. What in fact is the ultimate objective of this debate? Is it freedom for the Moslem peoples of Algeria? In that case, I ask: are they not already free? Do they not already enjoy universal suffrage and are they not already represented in local assemblies, the Algerian Assembly, and all the national assemblies? The Moslems have the same rights as other French citizens. They are in fact in a much better position than the peoples of many of the States opposing us today. A moment ago Mr. Spaak told this Assembly, ably, courageously, and with deep feeling, how certain States which ignored the very existence of the right to vote and the elementary rules of justice had the temerity to attack France.

182. France will not tolerate insults or slanders against its civilizing work at a time when countries still exist in which minorities are subjected to cruelly discriminatory treatment, where abject poverty is fatalistically accepted, where the illiteracy rate is as high as 80 per cent and the infantile mortality rate unfortunately in the region of 800 per 1,000, according to the statistics, and where there is not one doctor for every 300,000 inhabitants or one hospital for every 1.3 million inhabitants. Let these countries appeal to the United Nations for guidance and assistance in the efforts which it is their duty to make at home. Therein lies the true mission of the United Nations; it is through constructive work that it should expand its activities.

183. With the Indian representative's permission, I should like to refer to certain figures which are absolutely false. The Indian representative spoke of 40,000 deaths in Algeria. I think that he is somewhat confused and that he was thinking of the innumerable casualties on the borders of East Pakistan. Furthermore, to his contention that the forces now in Algeria have been withdrawn from NATO forces and that Algeria has therefore become the scene of international military

intervention, I should like to reply that Algeria is part of the territory covered by NATO.

184. Is not this insistence on freeing those who are already free and disuniting what is now united significant in itself? Weigh well the consequences. To what extremes of audacity will the forces of violence and destruction rise tomorrow if today they receive the support of the United Nations, and what will be the outcome? In my country's opinion, the decision that will be taken by the Assembly will be far more serious for the United Nations than for France. The future of our Organization will be at stake. What would happen if it was established that the United Nations was entitled to intervene whenever there was a racial, linguistic, or religious minority within the boundaries of any State? If the Assembly decided to discuss the French problem of Algeria, there would be nothing in the future to stop each of us from exercising the right that he would have to intervene in the domestic affairs of any of us, for the United Nations would itself have recognized that right. The territorial unity of any State and all frontier treaties, old or new, could, at any time, be placed in question. That would be the end of security for many and of independence for the weakest.

185. If that happened, the United Nations, which was set up in 1945 to ensure international understanding and security, would have forsworn the very reason for its own existence. It would be playing a role diametrically opposed to that for which it was established. It would become the instrument of division, violence and disorder, whereas it is and should remain that of unity, tolerance and peace. At this time, when more than ever it is the duty of the peoples and nations to draw together, such a policy would have exactly the opposite results, that is to say it would lead to the disunity and fragmentation of States.

186. How then could the United Nations survive if it appeared that it could place its moral authority at the service of division, violence and disorder? There would be many who would lose confidence and who would be tempted to dissociate themselves from the United Nations and, I will be frank with you, France might well be of that company.

187. In North Africa, as elsewhere, France has shown that it has a clear understanding of social evolution, that it can find rational solutions in keeping with the times and apply them with determination. France is entitled to expect from the United Nations an impartial vote based on lucid understanding. It believes that the United Nations, whose task is to promote international understanding and whose moral authority should support those who seek to bring about reforms rather than those who try to jeopardize them, will not play the role which some are urging on it. The General Committee's recommendation is simple. It is wise because it safeguards the future of the United Nations. France warmly hopes that the General Assembly will endorse it.

188. The PRESIDENT (*translated from Spanish*): The representative of Iraq raised a point of order and asked for the right of reply under rule 75 of the rules of procedure. As the representative of France was the last speaker on the list, I therefore call upon the representative of Iraq to speak.

189. Mr. AL-JAMALI (Iraq): Ever since the days of San Francisco, ten years ago, I have had great respect and regard for the leader of the Belgian delegation, Mr. Spaak. He is one of the great men of Europe, one

of the great leaders of freedom. I fully acknowledge his capacity and leadership. I was not fortunate enough to be here when he presided over the General Assembly, but I am sure that he is one of the great men of this Organization. We regret that he has not been with us during the last seven or eight years, as he has said. We wish he had been here.

190. But I wish to assure Mr. Spaak that this Organization to which he belongs, and of which he is one of the founders, is not a static organization. It is a dynamic organization, one that grows. It is a dynamic organization that responds to the needs of mankind. It responds to the urge for freedom and self-determination of peoples. This Organization cannot accept the view that the world should remain as it was in the days of San Francisco.

191. The world is changing and will continue to change. But who is going to bring about this change, and how? Is it going to be by bloodshed and strife outside the United Nations, or is the world going to change by peaceful and friendly methods, through this Organization? This is the question which I would pose to the distinguished leader of the Belgian delegation.

192. Mr. Spaak made a few remarks with which I wish to take issue. First of all, he said that those who submitted the item for inclusion in the agenda were following the methods of chaos and going contrary to international law. I wish to assure him that it is because we wish to avoid chaos that we came to this Organization. It is because we are against chaos and because we want order in this world that we appealed, and do appeal, to this Organization.

193. Mr. Spaak also said that we were "imprudent" in submitting this item. I cannot see what other method could prudently be used for stopping bloodshed in a certain part of the world besides the method of bringing that issue to this Organization for airing in a friendly atmosphere and in the spirit of the Charter. I submit that it is quite prudent to bring this issue before this Organization and that it is quite imprudent to leave the issue outside and to allow lives to be destroyed and international harmony to be disturbed.

194. The third point on which I wish to take issue with Mr. Spaak is his reference to the backwardness of some of the countries that have made this appeal to the United Nations. It is true that some of us do not have good electoral laws. Some of us do have a high percentage of illiteracy, as the leader of the French delegation stated. We recognize our backwardness. But the fact is that we are free to develop ourselves, and it is this blessing of freedom that is most fundamental and basic for all peoples who wish to develop themselves as human beings worthy of that name. We are not ashamed of having high infant mortality, of having a high percentage of illiteracy, because we are fighting and working hard to overcome these shortcomings. If our electoral laws today are not adequate—if they do not exist—they are potentially there, and potentially we are all abiding by the spirit of the Charter and by the principles of democracy. Therefore, it is inappropriate to attack those nations which submitted the item on the ground that they need development and progress.

195. The fourth point with which I wish to take issue with Mr. Spaak is that those of us who submitted the proposal for the Algerian question to be included in the agenda have attacked France and have conducted a propaganda campaign against France.

196. I wish to state here that my country, like the others, is friendly to France. We would be the last people to ignore the great contributions of France to civilization. We know that French history has many bright pages. We all owe to France much of the great principles of freedom, brotherhood and equality.

197. In bringing this question before the United Nations, we do not intend to attack France nor do we intend to be critical of France. We are friends of France and, because we are friends of France, we should like questions of international significance to be considered in a friendly atmosphere in the United Nations.

198. I should like Mr. Spaak to know that today people are interrelated. What happens in Algeria has its repercussions in my own country and what happens in Algeria has its repercussions in other parts of the world, both East and West. When the people of my country read in the newspapers every day that so many Algerians have been shot and that so many villages have been destroyed, what would one expect the repercussions to be concerning the relations of my people with the people of France? Does not such a situation endanger the friendship and harmony which exists between my country and France?

199. My country is closely connected with France in several economic matters. First, they are shareholders in oil. Secondly, they have large contracts and many development projects which they have undertaken. We are very glad to co-operate with France. But when my people read daily in the Press that their brethren in Algeria, who are both Arab and Moslem, are being dealt with by airplanes, by helicopters and by the forces of NATO, is that international harmony? Is that the way to achieve international harmony?

200. I should like to remind Mr. Spaak of a few facts concerning the San Francisco Conference. First, I wish to remind him that more than one month was spent at San Francisco in the Third Committee on the defence of the rights of dependent peoples to freedom and self-determination. My country, along with others, worked hard to see to it that these rights were inscribed in the Charter. I hope that Mr. Spaak will open the Charter at Chapter XI and read along with me Article 73, paragraph b which reads:

"to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement."

201. This is an obligation which is contained in the Charter. The dependent peoples are protected by the Charter. It is our obligation to see to it that whenever they are mature and call for self-determination and freedom, this Organization must assist them. Any hesitation or obstruction in connexion with this assistance is certainly not in accordance with the spirit of the Charter.

202. Moreover, the Charter imposes on us, in Article 1, paragraph 4, "To be a centre for harmonizing the actions of nations in the attainment of these common ends".

203. Do we not want the harmonizing of our views? We have here two differing points of view. This entire debate is proof of the fact that we have diverse points of view. Now which is the better procedure? Shall we see to it that this divergence of opinion is aired here in

a friendly atmosphere so that we may explain the situation to each other, so that we may attempt to convince each other, so that we may co-operate with each other, or shall we close the door on the question and say, no, we are different, let us remain different?

204. What is the duty of this Organization? What should we, as faithful Members of the United Nations, do? When we see such wide divergencies in points of view between our friends and brethren here, between the Members of the United Nations, should we not bring those issues to a friendly atmosphere in order to discuss them in a spirit of "give and take"? This is the spirit of the Charter.

205. I should like to assure Mr. Spaak that those of us who brought the Algerian question to the United Nations were motivated by the spirit of the Charter. We were motivated by the international atmosphere of harmony, friendship and co-operation. We would like to put an end to the bloodshed. We would like to have peace reign everywhere.

206. We have no quarrel with the association of Algeria with France, but we should like that association to be based on freedom, on equality and on the free will of the peoples themselves. We cannot stand by indifferently and watch innocent Algerians being shot and killed every day. We cannot let the situation continue and say that this is no concern of the United Nations.

207. I sincerely hope that Mr. Spaak will use his great influence as a leader in his country, as a leader in Western Europe and as an important member of NATO, to see to it that the door is not shut on this discussion. On the contrary, I hope that he will use his influence to have the discussion take place and that he will bring to it his constructive suggestions for a friendly and peaceful settlement.

208. The PRESIDENT (*translated from Spanish*): I call upon the representative of Belgium who wishes to exercise his right of reply under rule 75.

209. Mr. SPAAK (Belgium) (*translated from French*): It is out of deference to the representative of Iraq that I come to the rostrum once again.

210. I must say that when I spoke to you a little while ago I did not flatter myself that I would be able to change the trends which have become apparent in this Assembly. Nevertheless it is something at least for a speaker to have been paid a tribute — which I much appreciated — by one of his most distinguished opponents and to have received a reply. The fact that the representative of Iraq felt it necessary to reply to me proves perhaps that my statement was not entirely lacking in force.

211. I do not wish to go over the various arguments at this juncture; it is too late and I believe that our minds are made up. I shall say no more about the legal question; nor shall I say which Articles of the Charter are or are not applicable. But in my earlier statement I omitted one rather important argument, an omission which was noted by the Iraqi representative with his usual perspicacity.

212. Obviously, I do not believe that we live in a static world. Obviously, I do not maintain that the world should remain as it was at the time of the San Francisco Conference. I said a moment ago that it was a question of political wisdom and the representative of India, with whom I disagree on the legal aspects of the matter, agrees with me that the question whether or not this case should be included on the agenda is a question

of political wisdom. In my opinion it would be unwise to include it. I do not think that we should gain anything. I think, as I have already said, that we should have confidence in France. I gave my reasons for that belief a moment ago. We should have confidence in France because of its past record.

213. No, the world — a world in which France plays its part — is not a static world. Look at Indo-China, where France tried to settle, and has, I hope settled satisfactorily, one of the most serious questions of our day. Look at Tunisia. Can anyone, today, still bring up the case of Tunisia in the Assembly? France has made a great effort in what I believe, if I may say so, to be the right direction and I have the impression that great progress has been made. We read every day of the efforts France is making to settle the Moroccan question in the most difficult circumstances. There too, important progress seems to have been made.

214. As for the Algerian question itself, what I wanted to add is this: I have heard it said during this debate that France seeks to solve the Algerian problem by the traditional methods of colonialism. I do not intend to express any opinion on the soundness — or otherwise — of the French proposals for Algeria. I would venture to say, however, that they have nothing in common with traditional colonialism. The colonialism of the nineteenth century did not consist in trying to give complete equality of citizenship to what were known as colonial peoples. France tells us today that what it wants to do in Algeria is to make all Algerians French citizens in the full sense of the word. Can that possibly be described as a manifestation of traditional colonialist policy? If it can, then the same words mean different things when you use them and when I use them.

215. You do not know, moreover, what the results of the French policy will be. Perhaps it will succeed. Perhaps the day will come when a majority of Algerians will say: Yes, we agree; we wish to be French citizens with the same rights as citizens of France.

216. I do not know if that is the best way or the right course, but I do know that it is not a static way, that it is not reactionary or cruel. I sincerely believe therefore that it would be wise to allow matters, which have already begun to move, to take their course.

217. After a debate such as that which has just taken place I cannot see what remains to be said on the substance of the question. I agree that the President was right to allow this debate to proceed. But I wonder what new facts or arguments can be advanced in Committee and before the General Assembly when the item comes up for discussion, assuming that it is included in the agenda. Everyone has had his say. Principles apart, if any useful purpose could have been served by this discussion, that useful purpose has today already been served. The French Government knows that both those who have attacked it and those who defend it are anxious and uneasy because they know that a serious question is involved. Each of us hopes with all his heart — I venture to express this hope and the Iraqi representative has done so before me — that France will solve the Algerian question in accordance with the principles of human generosity which are a traditional part of French policy.

218. What more can we want? Why, I repeat — and these are my last words — must we continue to embitter the debate? However moderate one decides to be, there are always disagreeable remarks that one lets slip in

the heat of argument. I do not think, and this is my sincere conviction, that it would be the slightest use to prolong the discussion of this question, nor would this help to solve the Algerian problem. That is why I most sincerely and with the deepest conviction adjure you not to let the United Nations embark on a course which in my view can only involve it in serious dangers.

219. The PRESIDENT (*translated from Spanish*): The General Assembly will now vote. The representatives of France and of Iraq have requested a vote by roll-call. I now put to the vote the recommendation contained in the General Committee's first report [A/2980, para. 5] proposing to the General Assembly that item 3 of the supplementary list [A/2942] "The question of Algeria" should not be included in the agenda.

A vote was taken by roll call.

Liberia, having been drawn by lot by the President, was called upon to vote first.

In favour: Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Sweden, Turkey, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Australia, Belgium, Brazil, Canada, Chile, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, France, Haiti, Honduras, Israel.

Against: Liberia, Mexico, Pakistan, Philippines, Poland, Saudi Arabia, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia, Afghanistan, Argentina, Bolivia, Burma, Byelorussian Soviet Socialist Republic, Costa Rica, Czechoslovakia, Egypt, Greece, Guatemala, India, Indonesia, Iran, Iraq, Lebanon.

Abstaining: Paraguay, China, El Salvador, Ethiopia, Iceland.

The recommendation was rejected by 28 votes to 27, with 5 abstentions.

220. The PRESIDENT (*translated from Spanish*): I call upon the representative of France to speak on a point of order.

221. Mr. PINAY (France) (*translated from French*): I have twice warned the General Assembly of the consequences of a violation of Article 2, paragraph 7 of the Charter. Yielding to demagogic and emotional attacks the General Assembly has seen fit to disregard the recommendation of its General Committee.

222. I must state that in a matter which is essentially within its domestic jurisdiction my Government refuses to accept any intervention of the United Nations which would be in defiance of the provisions of the Charter. It will consider as null and void any recommendation which the General Assembly might make on the matter. My Government is going to consider the question and — I say this in all seriousness and with deep regret — I do not know what consequences the vote which has just been taken will have on the relations between France and the United Nations.

223. The PRESIDENT (*translated from Spanish*): If there is no objection, I shall take it that the Assembly, in view of the result of the vote, has decided to include in the agenda of its tenth session item 3 of the supplementary list [A/2942] "The question of Algeria".

It was so decided.

224. The PRESIDENT (*translated from Spanish*): If the Assembly agrees, this question will be allocated

to the First Committee. I wish to point out that the General Committee's recommendation offered no suggestion on this point.

It was so decided.

225. The PRESIDENT (*translated from Spanish*): We should now pass to paragraph 6 of the General Committee's report. But since, at its 103rd meeting, the General Committee deferred this question, and since its relevant recommendation is not in its first report [A/2980] but in its second report [A/2985], we should complete our examination of the first of these reports before proceeding to the question of the inclusion in the agenda of item 5 of the supplementary list [A/2942] "The question of West Irian (West New Guinea)".

It was so decided.

226. The PRESIDENT (*translated from Spanish*): We will now take up paragraph 7 of the General Committee's report [A/2980] which refers to item 7 of the supplementary list [A/2942]: "Establishment and maintenance of a United Nations Memorial Cemetery in Korea". The representatives of the Soviet Union and of Poland asked in the General Committee that their abstention be recorded with regard to the inclusion of this item in the agenda. We should therefore vote on the recommendation contained in paragraph 7 of the General Committee's report.

The recommendation was adopted by 44 votes to none, with 6 abstentions.

227. The PRESIDENT (*translated from Spanish*): Paragraph 8 of the General Committee's report refers to items 20 and 23 of the provisional agenda [A/2915]. If there is no objection I suggest that the General Assembly should first take a decision on the inclusion of item 20, "Treatment of people of Indian origin in the Union of South Africa", and then consider item 23. Does anyone wish to speak on this matter? I call upon the representative of the Union of South Africa.

228. Mr. du PLESSIS (Union of South Africa): When the agenda was considered by the General Committee I asked to be heard [102nd meeting] in order to register the protest of the Government of the Union of South Africa against the inclusion of this item. I wish to repeat this protest today.

229. The General Assembly will be aware that this is an attitude that we have taken up consistently in the past, and our arguments are too well known to require further detailed exposition on this occasion. The Government of the Union of South Africa has in no way departed from its conviction that the question of people of Indian origin in the Union of South Africa is solely concerned with the relationship between the Union Government and citizens of the Union, and that therefore it deals with matters which clearly fall essentially within the domestic jurisdiction of the Union Government. For this reason my Government is unalterably convinced that the Organization and the Assembly are precluded by the terms of Article 2, paragraph 7, of the Charter from considering any aspect of the case. The terms of this Article are explicit. Its background, as we have demonstrated in the past, fully supports our interpretation. Attempts have been made to place a different interpretation on certain words in the Article, but these efforts deny the existence of explanatory records of the United Nations Conference on International Organization, held at San Francisco in 1945. Those records are so clear that they do not permit of double meanings being attached to what was intended

and decided at that time. They also show conclusively that the effect of Article 2, paragraph 7, can in no way be weakened by any other Article in the Charter since the Article in itself has an overriding quality.

230. It is often contended that, if for no other reason, the Assembly derives its competence to discuss the item from the fact that it has done so on previous occasions. This argument we have always rejected in the past, and we still do so. It is an argument which holds that an illegal and unconstitutional action, once taken, becomes a precedent which validates future action, no matter how illegal or unconstitutional it may originally have been.

231. Some delegations, while expressing the gravest misgivings about the international character of this item in the light of Article 2, paragraph 7, of the Charter, have nevertheless in the past been persuaded to support its inclusion in the agenda on the grounds that a previous Assembly had called for a report or had recommended its inclusion in a future agenda. To be persuaded by this argument is not only to follow the line of least resistance but also to debase a principle for the sake of procedure. Each Assembly must be the master of its own procedure. Each Assembly must decide for itself what acts would best constitute a contribution to the purposes of the Charter.

232. What, after all, do we seek by the inscription of items in the agenda and their subsequent debate? Surely our primary task, which must always be within the framework of the provisions of the Charter, is to seek solutions to problems; surely it is to develop friendly relations among nations and to achieve international co-operation. It is one of the basic principles of the Charter that the Organization shall be a centre for harmony between nations. If, therefore, this Assembly at this stage wishes to decide that the continued inclusion of this item in the agenda, no matter what the precedents may be, would no longer serve the best interests of international harmony, it must be entirely within its discretion to do so.

233. Anyone here who is familiar with the long history of this item in the United Nations — there must be many who are not only very familiar with it but also heartily tired of it — must a long time ago have come to the conclusion that none of the objectives of the Charter has been facilitated by the annual raising of a question the validity of which the Government of the Union of South Africa can under no circumstances allow. Year after year, inscription against our protests has been followed by acrimonious debate and, on the part of some, by false accusations against my country and distortions of conditions in South Africa. I cannot stress enough that the tone of these discussions on the part of some Member States has facilitated neither the achievement of the objectives of the Charter nor the professed desires of the originators of the item. Indeed, the tone of the acrimonious debate in recent years has only added to existing friction and has contributed nothing to the chances of understanding and the development of goodwill.

234. In conclusion, I wish to say that I am aware that under the terms of a resolution [816 (IX)] adopted by the General Assembly at its 497th plenary meeting, the Secretary-General appointed Mr. de Faro of Brazil to facilitate contact between the three States concerned, and that there must be a report by Ambassador de Faro. It is in this connexion that I wish to make it quite clear that while the Government of the Union of South

Africa takes its stand, as it has always done in the past and will continue to do in the future, on the clear provisions of Article 2, paragraph 7, of the Charter, its inability to avail itself of the services of Ambassador de Faro was a necessary consequence of this legal position. For the Ambassador himself, distinguished personage that he is, we have nothing but the highest regard, and we are sure that the representative of Brazil in this Assembly will understand that we could not allow any other consideration to affect the stand which we have always taken in the defence of the principle of domestic jurisdiction which is enshrined in Article 2, paragraph 7, of the Charter. Should it be decided once again to inscribe this item in the agenda, the denial of its rights under the provisions of the Charter by this Assembly will continue to be a matter of grave concern to my Government, as indeed it should be a matter of concern to all Member States concerned with the protection of their own sovereign rights.

235. I reserve my right to revert to this matter if necessary.

236. Mr. SEN (India): The objection to the inclusion of item 20 just raised by the representative of the Union of South Africa is not new. He has as usual, based his objection on an interpretation of Article 2, paragraph 7, of the Charter. The language of that Article is too well known to need repetition. But it will be my endeavour to answer the objection on the legal plane because I agree with the representative of the Union of South Africa that this matter, at this stage at least, should not be debated on a political plane.

237. During his address in the course of the general debate [528th meeting] the representative of the Union of South Africa expressed regret that this subject had been discussed on political grounds and that the Charter had not been construed as a legal document. So far as my delegation and my Government are concerned, no attempt has ever been, or ever will be, made to use this debate or to introduce any subject for political considerations. To that aspect of the case I shall revert later. But on the construction of the provisions of the Charter, as I have already stated, I agree with the representative of South Africa that the Charter should be construed as a legal document. The prohibition in Article 2, paragraph 7, is a sort of negative obligation included among many other positive obligations contained in the Charter, and the representative of the Union of South Africa will agree with me when I say that such a covenant contained in a document has to be construed having regard to certain very well recognized canons of construction. Instead of referring to that in detail it will be sufficient to refer to certain of these principles.

238. The first is that the provisions of a document such as the Charter must be construed as a whole, so that no single covenant should be construed in such a manner as would lead to conflict with other provisions or make other provisions in the Charter nugatory.

239. Secondly, it should receive that construction which promotes the purposes and objectives of the Charter rather than one which destroys such purposes and objectives.

240. Thirdly, the words employed ought to be used in their ordinary sense and no single word ought to be regarded as a surplusage. And having regard to this principle, and coming to the strict wording of Article 2, paragraph 7, these words are of great import. It says

that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state." The expression "essentially within the domestic jurisdiction of any state" *proprio vigore* emphasized the co-existence of a jurisdiction assigned under the Charter to the United Nations. Otherwise it would not have been necessary to emphasize the prohibition in regard to matters "essentially within the domestic jurisdiction of any state". It must necessarily mean that a special jurisdiction has been created for the United Nations by the States subscribing to the Charter.

241. I suppose everyone will agree that no international obligation can live apart from the domestic sphere. International obligations are imperceptibly interwoven in the domestic texture of any State, for it is only through municipal action and legislation that international obligations are enforced and adhered to. Similarly, it is only through municipal action and law that international obligations are broken. The two sets of obligations do not live apart; they do not fall easily within rigid, water-tight compartments. This will be clear if we refer to similar problems which arise even in matters within a particular State, where governmental powers and functions are assigned to different bodies, as in the American Constitution or in the Constitution of Canada, Australia or India. Where governmental functions and legislation are assigned to different bodies under separate heads, it has always been recognized that the subjects so assigned cannot possibly be kept in water-tight compartments because when you act in relation to one, you are bound to entrench indirectly upon other fields not assigned to you.

242. Drawing the analogy from the constitutional sphere and applying it to the international sphere, I suppose it is clear that no international action is possible in relation to the functions of the United Nations without having indirect effects on the national sphere. Take any problem—the problem of labour, the problem of factories, the problem of franchise for women or various other problems which have been debated, discussed and which have even formed the subject matter of various resolutions of this General Assembly. None of these matters can be discussed or decided upon without bringing about some sort of indirect effect on the national policies or affairs of Member States.

243. That is made clear when we refer to the words "essentially within the domestic jurisdiction of any state". That means that matters which are decided or discussed here are necessarily connected with domestic affairs of the Members and will necessarily have effect on the domestic affairs but they do not necessarily become matters which are essentially domestic. Bearing that in mind, we shall now have to see what are matters which are not essentially domestic in their nature but which belong to the sphere of the United Nations, which lie within the domain of this Assembly. These are the matters which form the subject matter of various provisions of the Charter, imposing various obligations on Member States. Some of them have been referred to, they have been repeated more than once in connexion with other subjects.

244. These obligations may be regarded as obligations subscribed to and undertaken by the Member States, and in regard to those obligations the United Nations will be entitled to act in the manner indicated by the Charter.

245. Let us refer first of all to Article 13, paragraph 1, which reads thus:

"The General Assembly shall initiate studies and make recommendations for the purpose of:

"...

"b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

It says it "shall initiate studies and make recommendations" in regard to these matters.

246. Then Article 14 says:

"Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter..."

247. If it is agreed that a situation has arisen which impairs the friendly relations between these two countries, and that it results from a violation of certain fundamental freedoms which form the very essence of the Charter, I cannot imagine how these categorical functions assigned to the Assembly by the categorical and unequivocal language used in Articles 13 and 14 can still leave any doubt in the mind of anyone about the competence of this Assembly to debate, or initiate discussions, or recommend measures for the peaceful adjustment of the situation in question.

248. In my submission, the language used in Articles 13 and 14 is absolutely unequivocal. It prescribes the way the Assembly is to function and the field in which it has to function and the conditions precedent which bring about the jurisdiction of the Assembly to function in a particular context. If, therefore, these conditions precedent are present and the fields are well understood, and the method of functioning is clearly followed, I cannot see how a question of jurisdiction can be raised on the ground that there is a negative covenant in Article 2 obliging Member States not to intervene in matters essentially within the domestic jurisdiction of a state.

249. There is another Article of very great importance, and after this I shall not read any more, because there are many more of similar import to Articles 55 and 56 which are equally categorical in their language. Article 55 reads:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

"...

"c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

It is the obligation of the United Nations to promote all that.

250. Article 56 goes on to say:

"All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55."

It is a pledge taken by Member States to take joint and separate action in co-operation with the Organization for the achievement of the obligations and purposes of Article 55.

251. Reading those obligations in their context, and in contrast with Article 2, paragraph 7, it becomes necessary to see whether there is any conflict between the two sets of obligations. The first set is a positive obligation undertaken by the States under the various provisions to which I referred a moment ago, and the second is a negative obligation under Article 2, paragraph 7. In my submission, there is no conflict. Initiating discussions and bringing about recommendations for the purposes mentioned in the Articles which I have read, do not, in my view, and cannot, in the view of any reasonable person, amount to intervention in the domestic affairs of a State. And it is not my interpretation alone. Although it is not a very fruitful occupation to quote authorities before this Assembly, I should like in this connexion to quote a very well known authority on this subject, Dr. Lauterpacht. In his latest edition of Oppenheim's International Law, he interprets Article 2, paragraph 7, of the Charter thus in section 140 a of that book:

"Although it is expressly laid down in the Charter of the United Nations that it does not authorize intervention with regard to matters which are essentially within the domestic jurisdiction of States, the provision in question does not exclude action, short of dictatorial interference, undertaken with the view to implementing the purposes of the Charter. Thus with regard to the protection of human rights and freedoms — a prominent feature of the Charter — the prohibition of intervention does not preclude study, discussion, investigation and recommendation on the part of the various organs of the United Nations."¹

This is Dr. Lauterpacht's view. Further on, in section 168 f, paragraph (b), he puts the matter thus:

"The exclusion of the right of 'intervention' on the part of the United Nations must be interpreted by reference to the accepted technical meaning of that term. It excludes intervention conceived as dictatorial, mandatory, interference intended to exercise direct pressure upon the State concerned. It does not rule out action by way of discussion, study, enquiry and recommendation falling short of intervention."²

252. Here is an authority of international repute interpreting the scope of Article 2, paragraph 7 and laying down what appears clear to any impartial student of law interpreting the Charter. That is, that the prohibition against intervention which has a technical meaning in matters essentially domestic cannot possibly rule out discussion and recommendation and other functions prescribed in the Charter in relation to matters touching on the fundamental freedoms and human rights which form, according to Dr. Lauterpacht, the very essence of the Charter, or in matters in regard to which the United Nations has been given specific functions and specific fields within which to work.

253. Now, that is with regard to the legal aspect of the matter. I have taken pains to elaborate on that aspect in a little detail in view of the expression of grief by the representative of the Union of South Africa on the ground that the matter had been approached more

¹ L. Oppenheim, *International Law*, 8th edition, edited by H. Lauterpacht, London, Longmans, Green and Co. Ltd., 1955, p. 320.

² *Ibid.*, pp. 415-416.

on political considerations than on legal considerations. I suppose that after my statement is finished the representative of South Africa will have no reason to continue in his grief in regard to that particular aspect of the matter. But I am very sorry, while departing from this aspect of the matter, to note that in his address in the general debate he used expressions regarding the propriety and the manner in which this matter has been introduced and discussed in this Assembly. His language cannot be characterized by me as very forensic. I shall quote only some of the expressions which he used, which I am afraid I cannot emulate in a forensic discussion.

Mr. du Plessis said:

"... Each year the attacks have followed the same pattern, and the same arguments have been repeated *ad nauseam*...

"... For some delegations these annual attacks on South Africa have become a sort of Roman holiday to which they look forward with relish and in which they engage with zest. I leave aside the fact that many of our detractors fall far short of the principles of fundamental human rights and freedoms to which they so often pay lip-service, and are guilty of racial and other forms of discrimination" [528th meeting, paras. 132 and 133].

254. There were other similar phrases interspersed in that statement of the representative of the Union of South Africa, which challenged the motive behind the introduction of this item before the General Assembly. It is not necessary to refute that challenge. I do not think that the charge that the matter has been introduced with a malicious intent would sustain a moment's scrutiny, and I do not think that it is necessary to answer that objection on that particular point in any detail. I do not believe that anyone has taken very seriously that part of the attack by the representative of the Union of South Africa. But I must say that, apart from raising the question of the competence of the United Nations to discuss this matter and make its own recommendations, the representative of South Africa told the General Assembly in no equivocal terms that, so far as this matter is concerned, from the point of view of South Africa it is closed. That is an attitude which is in striking contrast with the attitude exhibited by the representative of the United Kingdom when he dealt with the question of Cyprus.

255. I remember with admiration the concluding words of the representative of the United Kingdom, who said that although his delegation disputed the competency of the United Nations and also the wisdom of discussing that item, he would assure the Greeks and the Turks that the door for negotiations would remain open forever and that the Greeks and the Turks would be welcome always for a discussion of that subject. I can only say that the attitude of the representative of South Africa in saying that the matter was closed for all time was certainly not one which is helpful in the peaceful solution of the conflict between our two States.

256. It is not necessary to go into the merits of the situation. I can assure the representative of South Africa that, contrary to his belief, we have not introduced this matter before the General Assembly, nor do we desire a discussion on the subject, for the purpose of bringing any malicious accusation against his Government. Our sole purpose has been, and always will be, to find a reasonable and peaceful solution of the outstanding conflict which, unfortunately, exists between our two coun-

tries with regard to this matter. Loyal to the traditions of my country in regard to such matters of international conflict and tension, my delegation will endeavour for all time to come to find a peaceful solution, and our invitation to the representative of South Africa to come and sit with us and discuss the problem as friends and not as opponents, as people who hold different views on a particular subject but as people who can resolve their differences, will remain forever.

257. I hope that before the present session of this Assembly ends, the representatives of South Africa will accept this invitation of ours and will show equal willingness on their part to find a friendly solution to this problem. It is not our desire to cross our swords and to show our fists in this Assembly. That has never been the tradition of my country. We believe in the arts of peace and in practising peaceful methods in solving our disputes.

258. I am sure that, if we are true to our traditions and if we carry out our intentions faithfully, this complicated problem, which it is certainly not a pleasure for us to raise year after year, would find a permanent solution.

259. The PRESIDENT (*translated from Spanish*): If there are no objections, I will put to the vote the General Committee's recommendation in paragraph 8 of its first report [A/2980] to include item 20 "Treatment of people of Indian origin in the Union of South Africa".

The inclusion of the item was approved by 47 votes to 1, with 10 abstentions.

260. The PRESIDENT (*translated from Spanish*): We will now consider the inclusion of item 23 in the agenda, "The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa".

261. Mr. DU PLESSIS (Union of South Africa): As in the case of item 20, concerning the treatment of people of Indian origin in the Union of South Africa, I have placed on record in the General Committee [102nd meeting] my Government's objections also to the inclusion of item 23 in the agenda. I wish to reaffirm our point of view on this occasion. As is well known, here too South Africa invokes the terms of Article 2, paragraph 7, of the Charter which affords to all States a common protection against interference in matters which fall essentially within their domestic jurisdiction.

262. It has always seemed to my delegation that there could be no more striking instance of intervention in the purely domestic affairs of a Member State than is demonstrated by the discussion which has taken place year after year on this item. On previous occasions we have enumerated the subjects which come under scrutiny in the general context of the debates on this item. We have tried to convince the Assembly that matters like the regulation of occupancy of land and premises by South African nationals; public service facilities on railways, buses and in post offices; the regulation of internal security; the composition of our armed forces; the domestic political rights of South African citizens; education and housing facilities of South African citizens, cannot by any stretch of imagination be considered to be the concern of this Organization. Any attempt by Members of the Organization in any way to influence or to regulate these affairs through the medium of the United Nations is, in our view, a flagrant invasion into our domestic affairs.

We would have thought that our contention on domestic jurisdiction would be so patently evident and acceptable to all Members of the Organization that attempts to demonstrate its validity would have been superfluous. We have, as you know, on a previous occasion tested the views of Members of the Organization on the question of competence. From the votes cast on that occasion it was clear that many Members shared our interpretation of Article 2, paragraph 7. But from the way some others voted we must conclude that they do not wish to avail themselves of the protection afforded by this Article of the Charter. Or perhaps they are prepared to waive it only when their own domestic affairs are not at issue. Let me make it quite clear that as far as my country is concerned we are not prepared to give up this protection.

263. I had the occasion a few moments ago to express our views on the question of precedents. I know that in this case also it will be argued by some that inscription of the item is demanded by the mere fact that the Assembly had last year called for yet another report. As you will know, the South African view is that the resolution [820 (IX)] of last year, and those of previous years, on this subject were unconstitutional. Even if in an earlier resolution this Assembly had been asked to consider an item, this Assembly is and must be the master of its own procedure. If this Assembly considers that an earlier decision is unconstitutional, or that an earlier decision was inadvisable or unwise, it is entirely free to revise or to ignore its predecessors' recommendation. The mere question of procedure cannot be allowed to stand in its way, especially if it is not in harmony with the purposes of the Charter.

264. I have dealt only very briefly with this question. The briefness of my statement recognizes that there is little new to add to our statements of earlier years. These statements still stand on record. I must, however, once again ask that this item be not inscribed in the agenda and that the Assembly should so express itself. If nevertheless a decision is taken to the contrary, I place on record my Government's strong protest at the inscription of the item and reaffirm their inability to recognize as valid or legal any action which flows from it.

265. Mr. SEN (India): No new argument need be advanced as a reply to the objection raised by the representative of South Africa. Our answer is the same. I have already quoted the authoritative interpretation of Dr. Lauterpacht, that even if it were regarded as a matter falling essentially within the domestic jurisdiction of a State, Article 2, paragraph 7, can never bar discussion, recommendation and other functions assigned to the United Nations. Apart from that, this item is a matter in which India alone is not interested. Twenty nations, including some European nations, had sponsored this subject last year. I am sure there is much more wide-spread support in this Assembly than is reflected by the sponsors themselves.

266. The plea of domestic jurisdiction, as you know, is a technical plea answered by my arguments on the previous item, which arguments I shall not repeat. I humbly submit that in view of the arguments we have advanced on that particular technical plea, namely the bar of jurisdiction, the Assembly will no doubt accept the recommendation of the General Committee.

267. The PRESIDENT (*translated from Spanish*): If there are no objections, I will put to the vote the recommendation in the first report [A/2980] of the

General Committee [A/2980, paragraph 8] to the effect that item 23, "The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa", be included in the agenda.

The recommendation was adopted by 45 votes to 5, with 6 abstentions.

268. The PRESIDENT (*translated from Spanish*): We shall now consider part I of the first report [A/2980] of the General Committee entitled "Adoption of the agenda". In accordance with the usual practice, we shall take up the items by groups whenever that appears advisable. I therefore invite the Assembly to vote first on the inclusion of items 1 to 19.

Items 1 to 19 were placed on the agenda without discussion.

269. The PRESIDENT (*translated from Spanish*): The General Assembly having already decided to include item 20 on the agenda, I suggest we now vote on the inclusion of items 21 and 22.

Items 20 to 22 were placed on the agenda without discussion.

270. The PRESIDENT (*translated from Spanish*): The General Assembly has already decided to include item 23. We shall now vote on the inclusion of items 24 to 26, which deal with economic questions, and then, in successive groups, we will vote on the inscription of the remaining items.

Items 24 to 26 were placed on the agenda without discussion.

Items 27 to 29 were placed on the agenda without discussion.

Items 30 to 35 were placed on the agenda without discussion.

Items 36 to 49 were placed on the agenda without discussion.

Item 50 to 53 were placed on the agenda without discussion.

Items 54 to 57 were placed on the agenda without discussion.

Items 58 and 59 were placed on the agenda without discussion.

271. The PRESIDENT (*translated from Spanish*): The Assembly has already decided during this meeting to include item 60, which was item 7 on the supplementary list [A/2942]. We shall therefore now vote on the inclusion of items 61 to 63.

Items 61, 62 and 63 were placed on the agenda without discussion.

272. The PRESIDENT (*translated from Spanish*): The General Assembly has now completed its consideration of the recommendations of the General Committee on the inclusion of items in the agenda of this session. We shall now consider part II of the first report [A/2980] of the General Committee entitled "Allocation of agenda items to Committees".

273. I call the Assembly's attention first to the Secretary-General's explanation concerning the allocation of the item entitled "Registration and publication of treaties and international agreements" mentioned in paragraph 10 of the General Committee's report.

274. We shall now vote on the recommendations of the General Committee concerning the allocation of agenda items contained in part II of its report.

The recommendations were adopted without discussion.

275. The PRESIDENT (*translated from Spanish*): We shall now consider part III of the first report of the General Committee [A/2980] "Organization of the tenth regular session of the General Assembly". In paragraph 12, the General Committee recommends that the General Assembly approve certain arrangements relating to the schedule of meetings; in paragraph 13, the General Committee recommends the General As-

sembly to set a date for the closing session. We will now vote on these recommendations.

The recommendations were adopted without discussion.

276. The PRESIDENT (*translated from Spanish*): We have now completed our examination of the first report of the General Committee. At our next meeting, we will begin consideration of its second report [A/2985].

The meeting rose at 7.10 p.m.