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SOME ADMINISTRATIVE PROBLEMS OF INTERNATIONAL LAW

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INTERNATIONAL law, as you know, is mainly a law between sovereign States, and States are very difficult things to administer. Being sovereign, they are touchy. They do not like to be told what they should do. Consequently the administration of international law presents problems of peculiar difficulty. Administration has been defined as the management of men and materials to achieve desired ends. Some may say that the management of states is not administration but politics. Even if this is true, each state has the responsibility of administering international law in its own territory if it is to avoid reclamations by other states.

International law, however, though mainly between States, extends to relations of individuals at opposite sides of national boundaries, to relations of individuals with States under the recent conceptions of "human rights", and to relations of individuals with international organizations, especially individuals on the staff of these organizations or inhabiting internationally administered territories. Such relations are dealt with by legal disciplines called "transnational law",[1] "Conflict of laws:,[2] "World law"[3] and "United Nations law"[4], but are aspects of "international law" in a broad sense. There are

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therefore a variety of problems which may be spoken of as administrative problems in international law.

I am going to discuss briefly five such problems. The first is national administration of international law. How do States arrange for the observance of international law each within its own jurisdiction? The second may be called indirect international administration – How do international organizations induce States to administer international law? The third may be called direct international administration – How do international organizations administer territories in which they have special responsibilities such as Trusteeship territories? The fourth is international administrative law – How do international organizations administer their own staffs? and that, perhaps, is the problem which comes nearest to public administration in the usual sense. The fifth is the co-ordination of international agencies – How can the activities of different international organizations be co-ordinated with one another?

National Administration of International Law

Taking up the first of these, the administration of international law by States, we observe that the State is a very complicated organism. Many of the civil servants of a State and a larger proportion of its citizens have never heard of international law. States may inadvertently violate international law through acts of their officers or of individuals within their territories. Of course, primary responsibility for administering international law is vested in the supreme government of the State, the "representative organ",[5] to which other States, injured by such negligence, as well as by international action, may make complaints. Because of this responsibility, nearly all states, make provision for assuring that they will not violate international law inadvertently. One finds in the legislation of nearly all States provisions for the protection of diplomatic officers, for the prevention of unauthorized military expeditions leaving the State's territories, for the observance of international law by courts in cases dealing with aliens, and so forth. In the United States for example there is a code of "offences against the law of nations" which provides punishment for many of these offences.[6] By such legislation the State assures that it will not inadvertently violate international through the action of individuals

within its jurisdiction.

In many States direct judicial application of international law is possible. There has been much discussion whether national courts ought to apply international law and treaties directly. The doctrine applied by the Supreme Court of the United States for many years was that international law is part of the law of the land and the courts apply it in appropriate cases, provided there is no clear legislation to the contrary. In the famous case of the Paquete Habana,[7] the court took this position, and the case books are full of cases in which the courts of the United States and other countries have applied international law.

It may be noticed that in national courts, international law is not the highest authority. The principle of national sovereignty means that if the highest legislative authority passes an Act which violates international law, the courts will have to apply that act. There has been much discussion of this problem which is known among jurists as the problem of "Monism" and "Dualism".[8] There are internationalists who say that international law is supreme all over the world, that courts must apply that law, and declare that any statute of their country contrary to that law is null and void. In practice, however, national courts do not do that although international courts do. National courts are creations of the nation and they have to apply the legislation of the highest national authority, although they will usually attempt to interpret that legislation as being in accordance with international law. They assume that the legislature did not intend to violate international law.[9] In the case of the American Banana Company vs. the United Fruit Company,[10] the Supreme Court of the United States was asked to apply the Sherman anti-Trust Law to end a monopoly or restraint of trade which was alleged to have been established by the United Fruit Company in the State of Costa Rica. The court recognized that this legislation provided that *all* combinations in restraint of trade should be penalized, but the term "all", it said, must be construed according to the usual understanding of international law, that the legislation of a State extends only to its own territory, and consequently it could not reach out to punish the alleged combination in the independent State of Costa Rica. The court has subsequently made some modifications of this principle, and has held that actions

in foreign countries which seek to violate the Anti-Trust Law within the United States may be subjected to penalty if the individuals involved are within the United States.

Many countries do not apply this principle of automatic incorporation of international law in national law. Their courts hold that international law can be applied only in so far as specific legislation has been passed giving national effect to the rule of international law in question. This principle imposes a burden on legislative bodies to pass the appropriate laws to assure that international law will be applied by the courts.

In addition to legislative and judicial action, international law may be maintained within the State by administrative action. Administrative officials within a nation ought to make suitable provisions for the protection of foreign embassies, for the protection of foreign sovereigns who may be traveling in the territories, etc. These are responsibilities which every State must discharge, but States are also bound to exercise due diligence to protect aliens in the territory. If the State neglects to provide for suitable protection to aliens or denies them justice in its courts it may be liable to pay reparation to the State of which the alien is a National.

A most important aspect in the administration of international law concerns action by the highest executive authority itself. That authority is less likely to violate international law, if the custom is established in foreign offices of always consulting the law officers before a decision is made. That seems to me perhaps the most important way through which the observance of international law can be assured. A few year ago, Lord McNair published the opinions of the law officers of the British Crown from 1652-1902. This exhibited the extent to which the British Foreign Office had had legal advice before it acted, in order that it might know whether a proposed decision was in accordance with international law or not. In the United States, there is a similar procedure. The Legal Adviser has a corps of 20 or more lawyers, and on every problem that comes up legal advice is asked. Now, of course, asking advice is one thing and following it is another. In McNair's compilation, the introduction noted that public access was not permitted to the opinions of the law officers after 1902. For 50 years or more such opinions are kept secret. Sometimes the opinions of law officers

are not followed and naturally the Government does not want its diplomatic antagonist to be able to charge that it does not follow the opinion of its own law officers. The other point which Lord McNair made is that the opinions which he records do not indicate whether they were actually observed and he adds he did not explore diplomatic history to discover to what extent they were because he is not a diplomatic historian. Professor Percy Corbett has recently published a book entitled *Law in Diplomacy*, which deals with this point in respect to Great Britain, the United States and the Soviet Union. Governments do not like to take steps contrary to the opinion of their law officers, although, as Corbett indicates, they usually do if they think "vital national interests" require. The custom of consulting the law officers before a decision is made in the Foreign Office is however important in preventing violations of international law through inadvertence.

Indirect International Administration

Now I come to problems which call indirect administration of international law by international organizations. These organizations, which have proliferated since the Universal Postal Union was established in 1870 and especially since the establishment of the League of Nations and the United Nations, seek to induce Governments to observe international law, particularly the rules which they have accepted in ratifying the constitution of the organization. International organizations, however, cannot generally coerce their members. The Charter of the United Nations provides that coercive authority can be used only in case a State has committed a breach of the peace, threat to the peace, or act of aggression. (Art. 39). Only when faced by these most serious violations of international law, arising from the principle of the Charter, which prohibits the use of force or threat of force (Art. 2, par. 4), can the United Nations even in theory exercise coercive power against States, and the theory is reduced in practice by the great power veto in the Security Council. This authority has, however, come into play a number of times. The Security Council, or if it fails to function the General Assembly, can issue cease-fire orders and call upon its members to apply armed force against a State which fails to observe such an order. Today cease fire lines

exist in the middle of Germany, Korea, Vietnam, Kashmir and Palestine. These "temporary" cease fire lines some of which have been in existence more than a decade indicate that the United Nations and other international agencies are more successful in stopping hostilities than in settling the disputes which led to them.

The authority of international agencies is usually limited to recommendation. The UN General Assembly and Councils can make recommendations on the merits of controversies which are within the general scope of the Charter but these are not usually obligatory. Recommendations may be divided into two classes. The United Nations may recommend that a State observe an obligation of international law or treaty which it has neglected. Such a recommendation addressed to a particular State may be regarded as an "intervention". Intervention implies "dictatorial" interference, consequently a recommendation addressed to a particular State telling is what to do may be regarded as intervention even though no coercive action is threatened if it fails to conform. Consequently Article 2, paragraph 7, of the Charter, which states that the United Nations cannot intervene in a matter which is essentially within the domestic jurisdiction of a State, would be violated if the matter were domestic. This form of recommendation can, therefore, be made only on matters which are not within the domestic jurisdiction of the State. What is the meaning of "domestic jurisdiction?" The principle is very simple. Every matter is within the domestic jurisdiction of a State except those which concern its international obligation. A State can not, in principle, give final judgment on its international obligations. So in determining the form of recommendation it is necessary to ask in the matter in hand, is the State under an international obligation of customary international law or treaty? If it is, then the United Nations is competent to make a recommendation directly to the State alleged to be delinquent. As you know, the General Assembly has made many recommendations in regard to the treatment by the South African Union of Indians and natives in South Africa, and the Union government has refused to pay attention to these recommendations on the ground that the treatment of persons within South Africa is a matter of its domestic jurisdiction and, therefore, the recommendations of the General Assembly are *ultra vires*. That

argument raises the question whether the provisions of the Charter concerning Human Rights, and agreements which have been made between India and South Africa, constitute "international obligations". It might seem desirable to ask the opinion of the International Court of Justice on this question but that has never been done. So you have the situation of the General Assembly, time after time, passing a recommendation on this matter and South Africa, time after time, saying it can ignore the recommendation. The issue is a legal one and should be settled by the court.

The other kind of recommendation is of a general character, addressed to all members. The Economic and Social Council or the General Assembly may recommend a conference to codify the law of the seas, or recommended that States make treaties prohibiting genocide or protecting human rights, or that all States enact social security legislation. That sort of general recommendation, addressed to all Members of the United Nations or all of a special category, is not considered intervention. Consequently the General Assembly or the Council are not forbidden to make such recommendations by Art. 2 par. 7, even though the subject matter is within the domestic jurisdiction of States, and they do so very freely.

Such recommendations strictly speaking do not concern the administration of international law. They may be recommendations for the improvement of international law. They may seek to support the purposes or the principles of the United Nations but not to enforce the obligations of the members.

Apart from recommendations, specific or general, the U.N. may exert 'influence' by discussion or diplomacy. States may fear that influence and seek to prevent issues from being debated in United Nations organs. France for example, tried to prevent debate on the Algerian issue in 1955. It was so disturbed when the question was put on the agenda of the General Assembly that it withdrew its delegation, alleging that this matter was within its domestic jurisdiction. This action was considered by most members contrary to the spirit of the Charter, although in this case, France was induced to return its delegation by the Indian motion, to remove the Algerian issue from the agenda without prejudice. It was the general opinion, however, that discussion is not intervention.[11] Until a matter has

been discussed it can not be known whether any resolution which might be proposed would involve international obligation. At the San Francisco Conference it was generally accepted that the United Nations should be free to discuss anything within the scope of the Charter. The influence of discussion, even if no recommendation emerged, would, it was thought, contribute to peace.

The other way of bringing influence is by diplomatic activity. The Secretary-General may discuss problems directly with the Governments and thus exert a very important influence. The scope of the Secretary-General's diplomatic powers is not fully set out in the Charter, but it may be inferred that he is competent to go to the capitals of the member states and talk with them about the problems which may come before the U.N. If the members can send Ambassadors to the seat of the U.N., as they do, it would seem that the Secretary-General should be able to send an Ambassador to the capital of each member-state. In other words, the Secretary-General should have diplomatic access to all the Members of the U.N. Many people say this is inherent in his position as administrative head of the U.N. (Art. 97). Furthermore, the charter authorizes the Secretary-General to inform the Security Council of threats to peace (Art. 99), a function which may require such diplomatic contact. The Hungarian Government, however, refused to invite the Secretary-General to come to its territory to discuss the situation in 1956. Many thought Hungary was obligated under the Charter to welcome such a visit. This kind of influence may be very important as illustrated by Secretary-General Hammarskjold's visit to China, the Middle East and other areas in times of emergency.

There seems to have been difference in the policy of the two Secretaries-General in this field. Trygve Lie's policy was to mobilize public opinion behind the U.N. when a crisis arose involving Charter principles. He suggested that the Communist government should represent China in the U.N. because it alone could discharge U.N. responsibilities in China. The U.S., however, was not in favour of this. When Korea was invaded, Trygve Lie came out definitely for the mobilization of U.N. forces against North Korea, and the Soviet Union was opposed to this. Mr. Lie's policy, therefore, continually got him into trouble with one Great Power or another. The Soviet Union eventually became so antagonist that it would not receive

communications from him and he had to resign. Mr. Hammarskjold has been more cautious. While there might be occasions for mobilizing public opinion behind U.N. principles, he has considered his main job to adjust differences and to do this he must win the confidence of all the Great Powers by a reputation for impartiality. The capacity of the Secretary-General to conciliate, to mediate, and to negotiate is important but the capacity to mobilize public opinion behind the General Assembly Resolutions may also be important. These two functions may conflict, but in the situation of high international tension, the exertion of influence by the Secretary-General through conciliation may be more useful.

Apart from the diplomatic activity of the Secretary-General, the United Nations exerts influence by sending mediators or commissions of conciliation to disturbed areas to settle disputes as Ralph Bunche to the Middle East and Frank Graham to Indonesia and Kashmir. Some think that such conciliatory functions must be the main reliance of the U.N. in maintaining peace.

By making studies, publishing documents, broadcasting the results of these studies by specialists on such subjects as education, labour, trade, health, the U.N. and the Specialized Agencies can, in the long run, influence the behaviour of peoples and Governments because they realize that the national interest requires that the advice implied in this information be followed. This activity, however is an exertion of influence to promote co-operation for human welfare rather than an exertion of influence to maintain international law.

Other indirect modes of inducing States to observe international standards are to help them achieve what they want by technical assistance. U.N. policy is continually forwarded by technical assistance programmes. The International Bank can utilize this method with special effectiveness because it has funds at its disposal. The Bank has undoubtedly contributed to the solution of the Indus waters dispute between India and Pakistan. While this activity does not usually concern international law, technical assistance programmes have been authorized to assist States to carry out their obligations in respect to human rights.

Central Governments have often influenced States in federations by grants-in-aid. In the U.S., Congress usually makes

such grants-in-aid, contingent on the observance of certain standards. There is no limit to the use of this method by the General Assembly, if its members will vote the appropriation.

Another method of inducement is through the work of commissions not to conciliate a dispute but to establish rules or standards. The League of Nations functioned through such commissions which consisted partly of administrative officials of the Governments concerned, and partly of international officials of the Governments concerned, and partly of international experts in the field. This is the procedure which Alexander Loveday, head of the economics section of the League Secretariat, favoured. He thought the best means of international administration was to get the responsible officials of the Governments concerned on a commission, in which they came in close contact with experts of an international organization with a technical and international point of view. If they committed themselves to a policy in such a commission, since they were responsible officials in their own Governments, they could carry out that policy. In the United Nations, this system has been less used because the Soviet Union wanted all commissions to be composed only of government officials.[12]

Another way to influence States is through the impartial determination of law. The principal organs of the United Nations and the Specialized Agencies are competent to ask advisory opinions of the International Court of Justice.[13] These opinions are merely advisory and, according to the Eastern Carelia case, cannot deal directly with the merits of a dispute between States, but an advisory opinion of the Court, dealing with a matter of international procedure, often indirectly affects the settlement of a pending controversy and may have considerable influence upon the States. In fact, advisory opinions often provided the basis for the adjustment of disputes by the League of Nations.[14] They have been less used by the United Nations.[15]

The Security Council and the General Assembly can also recommend that the parties to a dispute submit the case to arbitration or adjudication (Art. 36, par. 3). Such recommendations are not binding. The British Government in the Corfu Channel case tried to rest the Court's jurisdiction on such a recommendation but the Court held against it.[16] The Court has held rigidly to the principle

that its jurisdiction rests on consent of the parties. If an international court has jurisdiction its decisions are legally binding upon the parties.

Influence may be exerted through the relations of United Nations Organization with private groups within the State. The International Labour Organization under its first Director, Albert Thomas, established close relations with trade unions in the member-states. The unions as well as employer organizations are represented in the I.L.O. and continually bring pressure upon their Governments to carry out the provisions of I.L.O. Conventions. The United Nations recognizes many 'Non-Governmental Organizations' (N.G.Os). These organizations have access to certain meetings of the Economic and Social Council and other organs of the U.N. Their representatives have the opportunity to learn what is going on in the United Nations, and, from this knowledge, may be in a position to bring pressure upon their Governments to observe United Nations principles and treaty obligations.

Investigatorial commissions are another avenue of influence. The United Nations Charter provides (Art. 34) that the Security Council may decide to investigate whether a dispute is likely to endanger international peace and security. Can an investigating commission be sent within the territory of a State without that State's consent? This has been a controversial question. The General Assembly can make recommendations for such investigation, but it has usually agreed that the commission should not go into the territory of a State, without that State's consent. This question was raised in the issue between Israel and Egypt in 1956. Egypt invited a U.N. commission and a United Nations force to come within its territory. The Secretary-General, then asked Israel to do the same but Israel refused and the Secretary-General did not attempt to send the force into Israel's territory. Some believe that Articles 104 and 105 of the Charter oblige members to admit such commissions if necessary to carry out purposes set forth in the Charter. If an investigating commission is explicitly authorized by the Security Council in pursuance of its responsibility to maintain international peace and security, it seems clear that the States are obliged to permit the commission to go into the territory of the states concerned. Article 25 of the Charter requires the members

to observe the decisions of the Security Council.

The sending of investigating commissions, within the territory of States, may prove to be a procedure of increasing importance: inspection commissions to assure observance of disarmament agreements and policing forces to maintain cease fire lines involve the same principle. If a permanent police force is established its utility would be reduced if it could not be sent within the borders of a State, unless explicitly authorized by the veto-ridden Security Council.

Finally, in a few cases, resolutions of United Nations organs and organs of Specialized Agencies are legally binding. This is so only if States have by treaty agreed in advance to accept such a resolution. Under international law, no State is bound by a new rule of law without its consent. In certain of the Specialized Agencies, *e.g.*, the Universal Postal Union, the constitution provides that certain regulations, made by organs of the agency, are binding. The State administering Trust territories are legally bound by General Assembly resolutions in this field. The peace treaty gave the General Assembly power to dispose of the former Italian colonies.

These are the methods by which international organizations can bring pressure and exert influence upon States to induce the observance of international law or the policies of the United Nations.

Direct International Administration

Some of the areas in which an international organization has direct responsibility are Trusteeship areas. These are administered by States chosen with consent of the United Nations. The later has complete powers of supervision and investigation. The Trusteeship Council under authority of the General Assembly can receive petitions from the area, hear petitioners in person, send representations to such areas, hear reports from the administering powers annually (Art. 87) and make recommendations or decisions in regard to the behaviour of the administering state (Art. 85). In this activity there is no question of intervening in the domestic jurisdiction of that State. The supervisory competence of the United Nations is complete. It can arrange for terminating the trusteeship of the area by recognizing its independence as proposed for French Togoland and Cameroons or by incorporation of the area in a

neighbouring self-governing territory as in the case of British Togoland, united with the Gold Coast to form the State of Ghana.

The "non-self-governing territories", which include all the colonial areas other than the Trusteeships, are referred to in Article 73 of the Charter. The responsibility of the United Nations in regard to them, is one of the most controversial matters in the United Nations. The colonial government is obliged to report on economic, social and educational matters [Art. 73(e)]. The provisions of the Charter provide in addition that one of the obligations of the administering authority is to develop self-government [Art. 73(b)]. The General Assembly has assumed that this permits it to inquire into the political situation in order to ascertain whether the colonial power is really developing self-government in the colony. The colonial powers have objected to this. They have said "you are trying to convert a non-self-governing territory into a trusteeship territory". On this matter there have been vigorous debates in the General Assembly between the colonial powers, mostly Western European, and the Afro-Asian Group. In principle, it is difficult to deny the right of the General Assembly to debate the question of non-self-governing territories and to make recommendations if it is convinced that some of the "obligations" undertaken as a "sacred trust" under Article 73 of the charter have not been carried out.

The scope of the term 'non-self-governing territory' is very controversial. Algeria would usually be considered a non-self-governing territory, and is so considered by a vast majority of its inhabitants. France however has said that it is a part of Metropolitan France. The General Assembly's position has been that the General Assembly can decide. The United States had treated Puerto Rico as a non-self-governing territory, but after the passage of the Commonwealth Act by Congress and its acceptance by Puerto Rico, the United States informed the General Assembly that now Puerto Rico had become self-governing. The General Assembly said, "we will look into it". They looked into the matter and concluded that Puerto Rico did have self-governing but passed a formal resolution asserting that the General Assembly had the power to determine what is a non-self-governing territory, had investigated the status of Puerto Rico, and had decided that it was

no longer a "non-self-governing territory". The colonial powers had insisted that this power did not belong to the General Assembly, but the Assembly has in fact exercised it.

There have been other internationalized areas. The Saar Valley and Danzig, two small European areas, were administered directly by the League of Nations. Trieste was, according to the Treaty of Peace with Italy, to be an internationalized area to be administered directly by the United Nations. This programme was never carried out, because the Security Council could not agree on an administrator. The deadlock was finally broken by agreement dividing the area between Italy and Yugoslavia. The Assembly resolution of 1947, partitioning the mandated territory of Palestine, provided for the internationalization of Jerusalem, but this, also, has not been implemented. The area has been divided between Israel and Jordan *de facto* but not *de jure*.

The U.N. headquarters in New York City is an enclave which the United Nations administer directly. It is outside of the police authority of New York and of the United States as a foreign embassy. The same is true of the headquarters of other international organizations in other capitals.

There have been proposals to internationalize much larger areas. President Eisenhower proposed that the Antarctic might be internationally administered for the benefit of science. What he was proposing was an international administration of this huge area, now inhabited only by penguins, without raising the issue of claims to sovereignty by eleven States. If uranium were discovered under the icebergs, the Antarctic might become a source of dangerous rivalry among these States unless such a project is accepted. He has made a similar proposal in regard to outer space.

Others have suggested that the bed of the sea beyond the continental shelf might well be administered by the United Nations. One can see that extension of national claims in many portions of the sea bed might lead to international friction. For instance, the countries bordering the Gulf of Mexico on the Persian Gulf might develop serious conflicts over oil exploitation. So some say let us now place a definite limit to the extent of the bed of the sea which can be claimed by the shore State, and give the rest to the United Nations. Then, when it becomes possible to exploit the resources,

the company must get a licence from the United Nations. As in the case of the Antarctic and outer space, there may here be a very good opportunity for direct international administration.[17]

International Administrative Law

Here an important problem is that of administering the staffs of the various international organizations. At the present time, there are about 10,000 international civil servants mostly on the staffs of the U.N. and the Specialized Agencies. The Charter of the United Nations provides that the members of the Secretariat shall be subject to instruction only by the Secretary-General (Art. 100) and other international organizations usually operated on the same principle. The staff members must be loyal to their organization. This may involve serious problems of conflict of loyalty to the State of which the individual is a national. Supposing a civil servant is given the job of arranging for the organization of sanctions against his country. Probably the United Nations would use some one who is not a national of the country against which it is exercising sanctions, but such a problem might arise on less important matters.

The issue of maintaining the immunity of international civil servants has been raised in connection with the investigation of members of the United Nations Secretariat by American Congressional and Senatorial Committees. According to some American legislators, the Secretariat was infiltrated with Communists. Of course there are Communists in the Secretariat because all member countries expect some persons of their nations to be appointed. But it would seem that even if there were American Communists on the staff of the Secretariat they should be responsible to the Secretary-General alone for their actions in discharge of their duties. But the view of the Congressional Committee was that these American nationals who were in the Secretariat were probably engaged in Communist activities hostile to the United States and should be fired if they refused to respond to questions of the Committees. Pressure was brought on Trygve Lie, the then Secretary-General, and he did discharge some members of the Secretariat, who had been accused by the American Congressional Committees. Many people thought the Secretary-General should have forbidden any member of the Secretariat to

appear before such national commissions, asked for evidence that such persons were engaged in subversive activities, then conducted his own investigation and, if it sustained the charges, taken appropriate action. Article 100 of the Charter of the United Nations says: "(1) In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. (2) Each member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities."

It seems clear that the investigation of an American citizen member of the Secretariat, by an American Congressional Committee would be likely to influence the behaviour of that person. The person knowing that his Government had its eye on him, would probably say, "I will never say or write anything which a future Senator McCarthy might regard as subversive."

It seems to me that Members of the Secretariat should be subject to investigation only by the Secretary-General. I think this accords with sound principles of public administration generally, and is particularly applicable to an organization which is entitled to immunity from local jurisdiction as are foreign embassies and international secretariats.

Now, we come to difficult problems in connection with the recruitment of international civil servants. Governments of large States usually recognize that some consideration should be given to the geographical origin of civil servants. This is especially true in federal unions whose member states will protest if denied fair representation in the federal civil service. In the U.N. this is more important, and in fact, there is an explicit statement in the Charter that "due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible" in addition to "the necessity of securing the highest standards of efficiency, competence and integrity". (Art. 101, par. 3).

Of course, each member of the U.N. brings pressure on the Secretary-General to get a fair share of appointments but some of

the members do not have many nationals who know the official languages or have the technical qualifications. This is for the Secretary General to decide but he must seek wide distribution of the jobs among the members.

Sound public administration requires protection of the rights of the civil servant. The General Assembly has provided regulations for the staff, which give security of tenure and specify conditions under which civil servants can be discharged. It has also established an administrative tribunal, as has the International Labour Organization. Decisions of these administrative tribunals are of legal character and cannot be overridden by the General Assembly itself. This was held by the International Court of Justice in connection with a case initiated by the U.S. After the Secretary-General had discharged some members of the staff under pressure from the United States, the Administrative Tribunal found that some of these cases violated the regulations. It therefore held that the Secretary-General must re-employ the persons or compensate them. The U.S. objected in the General Assembly to this decision, but that body passed a resolution requesting an advisory opinion of the International Court on the question. The Court advised that the Administrative Tribunal was designed to give binding judgments. Consequently, the General Assembly should appropriate funds to pay the compensation required and this was done.[18]

Another issue has arisen in regard to administrative tribunals. The International Labour Organization has such a tribunal, and its statute provides that its judgments may be appealed to the International Court of Justice. The statute also provides that, on accepting these conditions, other Specialized Agencies could utilize the I.L.O. administrative tribunal. The Director-General of UNESCO discharged some members of the staff of UNESCO in Paris. These people brought claims for compensation to the ILO administrative tribunal. They were awarded compensation, and then UNESCO asked for the advisory opinion of the International Court on this question. But under the specified conditions in the tribunal statute the advisory opinion would have the character of an appeal and would be obligatory. The issue arose as to whether in the hearings before the Court, only the international organization that asked for the advisory opinion should be heard, or whether the

individuals should be entitled to an equal hearing before the Court. Normally, the Court is open only for cases between States or for advisory opinions asked by international organizations. There is no regular procedure for an individual to be heard by the Court. Yet justice requires that in a litigated case the parties have an equal opportunity to be heard. The majority of the Court held that because UNESCO had been careful to allow the persons to prepare their cases in a written form and had submitted these briefs along with its own brief fair hearing had been given.[19] This raised a very interesting question whether an advisory opinion should be refused unless all parties involved were given equal opportunity to be heard.[20]

Co-ordination of Activities of International Agencies

It has been suggested that the Economic and Social Council of the United Nations should provide regulations to prevent duplication or multiplication of activity by the different Specialized Agencies, many of which have overlapping functions, and should supervise and co-ordinate these operations. Other means of co-ordination through supervision of the budgets of all the organizations by the United Nations, through establishment of uniform staff standards, and through close geographical and personal contacts of the Secretariats have also been suggested. The hope that efficient international administration might be forwarded by such methods has not been fully realized. It may be that a certain amount of competition among international organization in some economic and social activities has advantages. Experience may prove that one organization can deal with a given problem more effectively that can another. Too much centralization may not be desirable but efficiency is also desirable.

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