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The System of International Trusteeship

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CHAPTER II

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INTRODUCTION

The logical basis for an evaluation of the trusteeship system established in the Charter of the United Nations is a comparison of it with the mandate system of the Covenant of the League of Nations. While this comparison is not entirely satisfactory because of differences of opinion as to the value of the mandate system, three facts are beyond dispute.

One is that no mandated area inhabited by peoples of African or mixed African descent[1] had made any appreciable progress toward self-government or independence between 1919 and 1939. By contrast Iraq was given her "independence," Syria and the Lebanon were promised independence and Trans-Jordan has recently been promised independence. Of the mandated areas inhabited by peoples who are not of African or mixed African descent, only Palestine has not been given or not promised independence, and the special circumstances in Palestine are well known.

Second, the mandate system had not appreciably improved the well-being of the African peoples in Africa and in the Pacific in some respects. The author of this article published statistical evidence showing, for example, the infinitesimally small sums spent on education in Africa through 1927.[2] Unpublished findings based upon the annual reports of the mandatories show that until the eve of the second world war these expenditures continued to be ridiculously small, as were those for other social services such as public health.

Third, the effectiveness of the supervision by the Permanent Mandates Commission left much to be desired. Lord Hailey recognized that the Commission "is on its strongest ground in dealing with legal questions, and is at times able to point to definite breaches of the mandate, but it would be quite impracticable for it to attempt to control the mandatories."[3] As early as 1926 a serious effort was made to give the P. M. C. three additional powers, namely, to draw up a questionnaire as a basis for the annual reports of the mandatories, to hear oral petitions, and to make its own investigations. Because of the opposition of the mandatories these powers were not granted.[4]

OBJECTIVES

Against this summary background we can proceed to our comparison. Let it be noted, first of all, that the Charter did not originate the idea of trusteeship, since the ethical basis of the mandate system was this same

[1] For the African blood of the Micronesians and the greater amount of African blood among the Melanesians in the Pacific, see Felix M. Keesing, *Native Peoples of the Pacific World* (New York, 1945), pp. 13-15.

[2] *The Operation of the Mandate System in Africa, 1919-1927* . . . Washington, 1942.

[3] *An African Survey* (London, New York, Toronto, 1939), p. 220.

[4] Quincy Wright, *Mandates under the League of Nations* (Chicago, 1930), pp. 147-155.

ideal of trusteeship. Article 22 of the Covenant stated that the "well-being and development" of the peoples to be mandated "form a sacred trust of civilization." Curiously enough, the words "sacred trust" do not appear in Chapters XII and XIII of the Charter which deal with the trust territories but in Chapter XI, article 73, which deals with colonies and protectorates. The importance of this Chapter will be discussed later.

The specific obligations of the trustees are, however, more clearly stated in the Charter than in the Covenant. Since the communities formerly belonging to Turkey were already recognized in 1919 as being almost ripe for independence, the significant stipulations dealt with the African and Pacific mandated areas. These were not considered ready for self-government or independence, and there was no indication when they would be. Meanwhile, the mandatories were to administer them in such a way as to guarantee freedom of conscience or religion subject only to the maintenance of public order and morals, the prohibition of the slave trade, traffic in arms and liquor, and the prevention of the establishment of fortifications or military and naval bases and of military training of Natives[5] for other than police purposes and the defense of the territory. France, because of her special needs in Europe, was exempted from this last prohibition. In addition all Members of the League of Nations were to enjoy "equal opportunities" for trade and commerce in the Class B mandates, namely, in Tanganyika, the two Cameroons, the two Togos and Ruanda-Urundi. This equality of commerce and trade was not to apply, however, to the Class C mandates, namely, South-West Africa and all those in the Pacific.

The Charter makes no such invidious distinction between "white" peoples who would soon be ready for independence and the Negro and Negroid peoples for whom independence or self-government was not specified. There are no classes of trust areas in the Charter. It should be pointed out, however, that practically all the peoples envisaged by the Charter for trust areas are Negroes or of Negro mixture. The Charter, moreover, specifically states that one of the objectives of the trusteeship system is "to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement." Of course, this clause (article 76, paragraph b) provides three escapes. The words, "as may be appropriate to the particular circumstances of each territory and its peoples," is one. The pretext that it was impossible to ascertain the wishes of the peoples of the mandated areas in Africa was used at the end of the first world war to evade the holding of plebiscites there. Even Lloyd George had proclaimed in his famous speech

[5] The writer understands that this term is objectionable. It is difficult, however, to find a more suitable one. See, for example, Keesing, *Native Peoples*, p. 6. Keesing does not capitalize the word.

of January 5, 1918, that "the general principle of national self-determination is as applicable in the cases of the German colonies as in those of occupied European territories."[6] But article 22 specified this right for only the Turkish communities. When questions were later raised in the English Parliament about consultation with the peoples of the African mandated areas, Bonar Law, replying for the government, was something less than candid. One member derisively queried: "If there is to be a poll of these East-African niggers and other coloured races, will it be taken on the principle of proportional representation?" Another added the *coup de grâce* when he interposed: "Will the women be allowed to vote?"[7] In the third place the clause, "and as may be provided by the terms of each trusteeship agreement," may be not only an addition but a limitation upon this free expression.

The Charter repeats in paragraph c of this article substantially the magnificent language of the Purposes of article 1 in the following words: "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world." The achievement of this end, as of the others, will be determined not by the beauty of the language but by the effectiveness of the system.

The final basic objective in article 76 may well prove one of the most significant in Chapters XII and XIII. It will be recalled that the Covenant stipulated "equal opportunities for the trade and commerce of other Members of the League" as far as the Class B mandates were concerned. The Charter prescribes the basic objective "to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80." The significance of the first part of this clause is that it makes the open door swing both ways, from the Members of the United Nations into the trust territories and for the peoples of the trust territories into the territory of the Members of the United Nations. In the past, the open door has been a one-way street, purporting to give equality of trade and commerce to superior nations in backward countries without granting reciprocity to the backward nations. The Western powers, for example, enjoyed the open door based upon the principle of the most-favored-nation in China, but China was not accorded equal rights in the western nations. The principle of the open door was applied to the Conventional Congo Basin, but the Native peoples of that region were given no such equality in the territory of the signatories. Clearly, imperial preference which some spokesmen in the British Commonwealth are still urging is forbidden in the trust areas by this paragraph.

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[6] David Lloyd George, *War Memoirs of David Lloyd George* (London, 1933-1936), V, 2485-2489.

[7] From the writer's forthcoming book, *The African Mandated Areas in World Politics.*

The key words in this section are "their nationals," a term which is much more inclusive than citizens, which would exclude most of the Native peoples of trust territories from this reciprocity. The potentialities of this section are fascinating. For it is to "ensure" equal treatment in the administration of justice and in social as well as economic and commercial matters. What would happen if a Negro from an African trust area attempted to sit in the front of an intrastate bus in Mississippi? Would he be ensured equality of treatment with white Americans or would this equality have to be achieved by segregating white Americans in that African trust territory?

Reference to article 80 limits somewhat the value of this paragraph. This article, known as the "Conservatory Clause," makes possible, for example, the continuation temporarily of unequal treatment for trade and commerce in South-West Africa and the other Class C mandated areas until trusteeship agreements have been concluded. In fact, the language would seem to permit the permanent continuation of this unequal treatment in the Class C mandated areas unless the trusteeship agreements so specify. This clause was added not only to protect the holders of Class C mandates but also the Arabs in Palestine. Fear that the loophole might provide a pretext for delay in the drafting of trusteeship agreements is seen in the second section of article 80 which specifically prohibits such delay.

Allocation of Trust Territories

The specific objectives of the trusteeship system are thus more clearly stated than were those of the mandate system. But the designation of the trust territories is more vague than was that of the mandated areas. The Covenant designated the former Turkish communities and the former German colonies as those which should be placed under mandate. The language of article 22 left no discretion. Moreover, the Supreme Council in Paris allotted mandates for the German possessions on May 7, 1919, more than six weeks before the Treaty of Versailles was signed.[8] But at San Francisco it was agreed that no allocations were to be made.[9] *The Charter, moreover, leaves it entirely to the discretion or good will of each nation concerned to determine for itself whether it will place any territory under trusteeship.* In order that there may be no doubt on this score, it is necessary to quote the exact language of article 77. It reads: "1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

"a. territories now held under mandate;

"b. territories which may be detached from enemy states as a result of the Second World War; and

"c. territories voluntarily placed under the system by states responsible for their administration.

"2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms."

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[8] Wright, *Mandates*, p. 43.

[9] Ralph J. Bunche, "Trusteeship and Non-Self-Governing Territories in the Charter of the United Nations," *The Department of State Bulletin*, XIII (December, 1945), 1041.

In addition, article 79 provides:

"The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85."

There is no agreement as to who are "the states directly concerned." Russia, for example, has asked for a trusteeship over Tripolitania. Does that request make her a state directly concerned in the event that a trusteeship should be established over that former Italian colony? One point, however, seems to be generally recognized, namely, that the United States, having been one of the five Principal Allied and Associated Powers, is a nation directly concerned in the mandated areas. The United States clearly established this interest in the years immediately after the first world war.[10]

To date, four agreements are in process of being drafted, those for Tanganyika, British Togo, British Cameroons and Belgian Ruanda-Urundi. It had been hoped that these drafts would be ready for submission to the General Assembly at its forthcoming September, 1946, session. Reliable information, however, indicates that this hope will not be realized. If this information is correct, then the earliest possible date at which these drafts will be submitted for approval by the General Assembly will be September, 1947, unless a special session of the General Assembly is called by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations as provided in article 20.

The Union of South Africa, meanwhile, has been desirous of incorporating the mandated area of South-West Africa into the Union as a fifth province.[11] The basis for this incorporation is the alleged desire of the "people" of South-West Africa. By "people," Prime Minister Smuts of the Union of South Africa means, of course, only the white people. It is encouraging to note that both at San Francisco and at the meeting of the General Assembly in London this proposal met such adamant opposition that even the redoubtable Smuts seems to have been impressed. Smuts has been so long paraded as a liberal in this country and in England even by persons who should know better that, mayhap, the mantle of liberalism, however specious, may make him hesitate to flaunt world public opinion, if there be such a nebulous entity. But how do the winds blow in the Union of South Africa? Since this writer has devoted some portion of his last fifteen years to the unmasking of Jan Christiaan Smuts, he must now point out that the septuagenarian race-baiter has a disciple, Oswald Pirow, who sometimes surpasses the maestro in ringing the changes upon white supremacy. The death of Smuts will not mean the end of racism in the Union.

France also has been recalcitrant about placing Togo and the Cam-

[10] Wright, *Mandates*, pp. 48-56.

[11] *African Transcripts*, No. 7. January, 1946, 2.

eroons under trusteeship. It should be noted, however, that the French recalcitrance is at the opposite pole from that of Smuts. The French have been talking about what recent American Negro writers have been calling first-class citizenship. This writer has accepted the view that *if*, and it is a big if, the Negroes of the French non-self-governing areas are given equal rights with Frenchmen in France, self-government or independence need not be the irreducible minimum. We do not, naturally, accept promises; we want performance. At all events, we recognize the vast difference between the ideals of Liberty, Equality, Fraternity on the one hand and the Boer dictum which now prevails among both Britons and Boers in South Africa that "there shall be no equality between black and white either in church or state."

The essential fact, meanwhile, is that not a single inch of territory has been placed under trusteeship. The three principal stumbling blocks have been the determination of the fate of the former Japanese-held mandated areas in the Pacific, of the former Italian colonies, and of Korea. Powerful spokesmen in the United States Navy Department have wanted outright annexation of some of the former Japanese-held islands, including the mandated islands. They have contended that only by outright annexation can the United States take the security measures necessary for the protection of the United States. Some elements in the United States State Department have insisted upon placing these islands under trusteeship, either because they have accepted the ethical bases of trusteeship or because they realize that insistence upon annexation in the Pacific would weaken the American position that the former Italian colonies should be placed under trusteeship. But there have been strong forces in the State Department which have urged that the former Italian colonies should be returned outright to Italy as colonies. Others have advocated a single Italian trusteeship for the former Italian colonies. At just about the time the State Department advocates of a real international trusteeship for the Italian colonies[12] seemed to have gained the day, four obstacles became almost insuperable.

The Russians demanded a Russian trusteeship for Tripolitania, either in order to place themselves athwart the British "life-line to India" or to gain a bargaining position to win Trieste for the Yugo-Slavs. The British remembered that they had promised not to subject the Native peoples of Cyrenaica to Italian rule. And, more ominously, the British, in order to maintain control of two Ethiopian provinces, professed a willingness to give Ethiopia a portion of Eritrea. It is probably no mere coincidence that at just about this time there was published in the United States *A Short History of Eritrea* by Stephen H. Longrigg, the British Chief Administrator of Eritrea, 1942-1944, who roundly asserts: "Indeed Eritrea possesses none of the qualities of geographical or cultural singleness which should entitle it to be a unit of territory or of government; nor, since antiquity until its consolidation as an

[12] For the proposals of the United States, see *The New York Times*, September 23, 1945, I, 12.

Italian colony, had its various peoples ever obeyed a single rule."[13]

In the fourth place, the recent contract between the Sinclair Oil Corporation and Ethiopia would make that powerful American corporation desirous of aiding Ethiopia in her efforts to obtain an outlet to the sea at Massaua in Eritrea, by far the best port on the Red Sea. In brief, the former Italian colonies are a football of power politics. Perhaps by the time that this article is published the June Paris Conference of the Foreign Secretaries of the Big Four will have disposed of the former Italian colonies. If the settlement is not the establishment of a real trusteeship, the annexationists in the United States Navy Department will hold the last trump. Perhaps they have been waiting for this settlement in order to play it. Advocates of a real trusteeship insist that under it the United States would have all the protection she needs. Evidently some naval spokesmen doubt this assurance.[14]

Korea, another area detached from the enemy, seemed likely to be the first trust territory established. But trusteeship there has apparently foundered upon the rocks of power politics.

The third category of areas that *may* be placed under trusteeship are existing colonies and protectorates. As one technical expert told this writer at San Francisco, the "Trusteeship Council is not likely to be swamped by this category." He was unquestionably right. Some supporters of the mandate system hoped that the system would be extended to the colonies and protectorates. But the trend was exactly the opposite—the mandated areas were more and more assimiliated to a colonial status. Moreover, the principal colonial powers have advanced reasons for not applying the trusteeship principle to their colonies. British official and unofficial spokesmen have reiterated that the policy of the British government for the non-self-governing areas is self-government, a unilateral program that England would alone implement. Advocates of this policy point to the Jamaica constitution of 1944 with its universal adult suffrage "without poll tax," to the proposed Nigerian constitution with an unofficial majority in the territorial legislatures.[15] The French are proud of their Brazzaville Conference,[16] of the representation of the colonies in the two 1946 Constituent Assemblies, of the proposed Constitution for Indo-China as a model for the other colonies, the raising of Martinique, Guadeloupe, and Reunion to the status of French departments. The Dutch publicize the Queen's pronouncement of December 6, 1942, which promised "one realm in which the Netherlands, Indonesia, Surinam and Curacao will participate with complete selfreliance and freedom of conduct for each part regarding its internal affairs, but with the readiness to render mutual assistance."[17]

[13] Printed in Great Britain, 1945, p. 3.

[14] For a recent evaluation of the stubbornness of these navy spokesmen, see *Time*, XLVII, June 17, 1946, 27.

[15] See, for example, British Information Services, "Towards Self-Government in the British Colonies," ID 598, May, 1945.

[16] French Press & Information Service, "French Colonial Policy in Africa," *Special Issue No. 2*, September, 1944.

[17] Mimeographed release at 6 a.m., Sunday, February 10, 1946, and thereafter.

We are constrained to repeat that we want performances, not promises. How long will Trinidad, Barbados, and the other British West Indies have to wait for a Jamaica constitution? How soon will Jamaica have a true parliamentary system of government, without the English governor's veto in vital matters? Does a majority of one in the proposed Nigerian territorial governments really assure a Native majority? When will the African Natives of Kenya have at least as many rights as the Indians there have?

Are some French colonials correct in their assertion that the raising of the status of Martinique, Guadeloupe, and Reunion to departments is a Machiavellian device to keep the white planters there in control and to make the Negroes there feel that they are superior to the Negroes in the other French dependencies?

Is it revolution in Indonesia that has induced the Netherlands to put on paper their promise of partnership for Indonesia, and is it the complacency of Negroes in Curaçao territory and Dutch Guiana (Surinam) that has permitted the Dutch government not to put on paper partnership for these non-self-governing areas?

So little is known about the Spanish and Portuguese colonies that even Lord Hailey recognized that he had little information about them. But the dictatorships of Franco and of Salazar hold out little hope for self-government, independence, or first-class citizenship for the non-self-governing territories of Spain or Portugal. Evidence is lacking that the United States has any intention of placing any of her non-self-governing territories under trusteeship. Uranium deposits in the Belgian Congo will alone suffice, probably, to prevent trusteeship there.

Machinery of the Trusteeship Council

We come now to an analysis of the machinery of the trusteeship system. It has been argued that the Trusteeship Council is "designed to be a more important and effective organ than the Permanent Mandates Commission of the League." This, it is stated, has been achieved, in the first instance, by the designation in article 7 of the Trusteeship Council as one of the principal organs of the United Nations.[18] The Trusteeship Council thus has more prestige than did the P. M. C. which was not a principal organ of the League of Nations. But the Trusteeship Council, while it is a principal organ, is not a coordinate organ. Article 83 states that "All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council." The article adds that the Security Council "shall . . . avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas." Article 85 correspondingly states that the functions of the United Nations with respect to trusteeship agreements for non-strategic areas shall be exercised by the General Assembly

[18] Bunche, *Trusteeship*, p. 1041.

and that the "Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions." Article 87, analyzed below, makes even clearer that the Trusteeship Council acts under the authority of the General Assembly. The Trusteeship Council may have more prestige as a result of its designation as a principal organ, but that designation does not necessarily give it more power than the P. M. C. possessed.

It has been further argued that since the Members of the Trusteeship Council will be official, it should be better equipped to handle political problems than were the members of the P. M. C. who were unofficial representatives.[19] There is the danger, on the other hand, that official representatives will be bound by instructions from their governments instead of being outspoken critics of the administration of the mandated areas, as was notably Miss Dannevig of the P. M. C.

The distribution of the members of the Trusteeship Council does not impress this writer as an improvement over that of the P. M. C. The latter had a majority of members from nonmandatory powers[20] whereas the membership of the Trusteeship Council is equally divided between nations administering trust areas and those not administering trust areas (article 86). These latter representatives will be at a disadvantage, moreover, since there is no limitation on the length of service of the representatives of the nations administering trust areas but the representatives of nations not administering trust areas may serve only three years.

It will be recalled that the attempt was made to strengthen the P. M. C. by giving it the right to draw up a questionnaire, to hear oral petitions, and to make its own investigations. As late as February 1, 1945, Mr. Arthur Creech Jones, now colonial undersecretary in the British Labor government, stated at a meeting at the Parkside Hotel in New York: "England would not tolerate oral petitions, inspection and report by a trusteeship council."[21] This writer, along with a few other interested persons, endeavored nonetheless to have these rights written into the Charter of the United Nations. It seemed, for a time, that this effort might meet with considerable success.

On May 4 the American delegation circulated at a press conference a draft which stated: "10. The General Assembly, and under its authority, the Trusteeship Council, in carrying out their functions, should be empowered to consider reports submitted by the administering authorities, to accept petitions, to institute investigations, and to take other action within their competence as defined by the trusteeship arrangements.

"11. The administering authority in each trust territory within the competence of the General Assembly should make an annual report to the

[19] *Loc. cit.*

[20] One of the American technical experts at San Francisco told Mr. Walter White, executive secretary of the National Association for the Advancement of Colored People, that this statement was not true. For its accuracy, see the Constitution of the P. M. C. in Wright, *Mandates*, p. 622.

[21] From the diary of the writer.

General Assembly upon the basis of a questionnaire formulated by the Trusteeship Council."[22]

Commander Stassen, the American delegate assigned to the task of drafting these provisions for the American delegation, explained at the press conference that in the final draft of the Charter the word "should" would be replaced by "shall."

The writer attempted to convince the American technical experts that the words "to accept petitions" did not include oral petitions and that the final draft should make specific reference to them. He was told that oral petitions were implied and that "We can't spell out everything." He contended further that it was not sufficient "to institute investigations"; there should be assurance that the report of the investigation would be published. The answer was similar—publication was implied and "We can't spell out everything."[23]

Let us now look at the final draft of the Charter. Article 88 states: "The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire." This article thus follows substantially the American draft of May 4.

Three important provisions of this article must be noted. First, the formulation of the questionnaire is mandatory, for the Trusteeship Council "shall" formulate it. The importance of this will be apparent when we contrast this mandatory obligation with the permissive language dealing with petitions and investigations. Second, although the formulation of the questionnaire is mandatory "for each trust territory," the submission of the annual report is prescribed for only those trust territories that are "within the competence of the General Assembly," in other words, for only the non-strategic trust territories. Third, the annual report for these non-strategic trust territories is to be "upon the basis of such questionnaire." No argument is necessary to suggest that this language gives the administering authority considerable latitude.

The language concerning petitions and investigations does not satisfy this writer. Article 87 stipulates: "The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

"a. consider reports submitted by the administering authority;

"b. accept petitions and examine them in consultation with the administering authority;

"c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

"d. take these and other actions in conformity with the terms of the trusteeship agreements."

It is instantly apparent that the force of this article is less than that of the American draft and also less than that of article 88. The American draft of May 4 stated that the Trus-

[22] Mimeographed release in the possession of the author.

[23] From the writer's diary.

teeship Council should be "empowered" to consider reports, to accept petitions and to institute investigations. Article 88 makes mandatory the formulation and submission of the questionnaire and report. But under article 87 the Trusteeship Council "may" consider these reports.

Similarly, the Trusteeship Council is no longer empowered to accept petitions as in the American draft of May 4 but "may" accept them. Moreover, while it was impossible to add three words, "and to hear," in order to make explicit oral petitions, it was possible to add nine words which, in the opinion of this writer, weaken the statement that oral petitions are implied. In the first place, one does not "examine" oral petitions; one examines something that is written. Second, it is an axiom of legal interpretation that specification excludes implication. Since this article specifies that the petition may be examined in consultation with the administering authority, it excludes the presence of the petitioner. The right of petition, whether written or oral, results then in an *ex parte* consultation between the Trusteeship Council and the administering authority unless rules of procedure change this clear meaning.

Dr. Ralph J. Bunche, one of the technical experts at San Francisco and now Acting Chief of the Division of Dependent Area Affairs, Office of Special Political Affairs, State Department, has declared on the other hand in *The Department of State Bulletin:* "The power to accept and examine petitions, oral as well as written, which was practiced by the mandates system with respect to written petitions but which was not included in the Covenant of the League of Nations, is formalized in the Charter."[24]

This writer can not accept this interpretation as far as oral petitions are concerned. The only way by which oral petitions could have been "formalized" was for the Charter to specify oral petitions. It does not. The writer has been informed that in the minutes of the committee that drafted the trusteeship provisions it was recorded that oral petitions were included. The very fact that it was necessary to place this interpretation in the minutes is proof that oral petitions are not "formalized" in the Charter. The value of this committee interpretation is subject to question. Evidence is lacking that the plenary session in adopting the Charter recorded this interpretation. Evidence is similarly lacking that the United States, in ratifying the Charter, approved this interpretation.

Final evidence that oral petitions were not "formalized" in the Charter is found in the provisional rules of procedure for the Trusteeship Council drawn up by the Preparatory Commission in London. Dr. Bunche has pointed out that under these rules "there is recognition of the right of the inhabitants of trust territories or other interested parties to present oral as well as written petitions, which *may* be received and discussed in open meeting. This right was upheld strongly by the United States."[25] If the right of oral petitions was "formalized" in the Charter, what need

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[24] *Trusteeship*, p. 1041.

[25] *Ibid.*, p. 1043. Italics not in the original.

was there to draw up rules of procedure to guarantee this right? The very fact that the United States "strongly" supported the interpretation clinches the position that the right of oral petitions was not "formalized" in the Charter.

Regardless of this friendly controversy, the writer sincerely hopes that the Trusteeship Council will approve these rules of procedure. The General Assembly last February unanimously adopted a resolution requesting the Secretary-General to transmit the provisional rules of procedure of the Trusteeship Council to that organ as soon as it is constituted. Under article 90 the Trusteeship Council has the right to adopt its own rules of procedure.

Let us now examine the import of the provisions dealing with investigations. The American draft of May 4 "empowered" the Trusteeship Council "to institute investigations." As previously noted, the final language changes "empowered" to "may." More important is the fact that "institute investigations" was changed to "make periodic visits." "Investigations" connotes something wrong. "Periodic visits" is entirely innocuous. Most important, however, is the fact that while the Charter was so long that it could not specify the allegedly implied publication of the reports of the investigations, it was short enough to add the words, "at times agreed upon with the administering authority." Nothing in the trusteeship provisions makes the writer doubt even the sincerity of the architects of peace as does the addition of these words. What butcher, for example, can not get his scales in order if he sets the date for the "visit" by the inspector from the Bureau of Weights and Measures? The writer was an officer during the first world war in a camp where the commanding officer permitted, in flagrant violation of army regulations, a bar in the officers' mess. The commander knew the exact day and hour when General Pershing was to inspect the camp. A half hour before inspection the bar was boarded up. A half hour after inspection the boards were taken down.

It has been pointed out with some cogency that even when the administering authority sets the date for the periodic visits, he can not over night construct schools, establish clinics and hospitals and fill them with surgical supplies. Nor is there much likelihood that the administering authority will erect camouflage villages and public buildings as did a minister of Catherine the Great of Russia. But the schools can be filled with an unusual number of students, the clinics can be cleaner than usual. Above all, in cases of serious social unrest, witnesses can become suddenly unavailable if the administering authority sets the date for the periodic visit. Any one who has undergone inspection will realize the abundant opportunities for skullduggery and misrepresentation under these added words.

Unfortunately, we are not told in the revealing article by Dr. Bunche whether the rules of procedure drawn up by the London Preparatory Commission for the Trusteeship Council specify publication of the results of the visit. We await the approval of these rules by the Trusteeship Coun-

cil in the hope that they are indeed "liberal."[26]

Dr. Bunche, in language that is refreshingly candid for a State Department publication, reveals what some critics had already deduced as the reason for the phraseology of these provisions. He states, with respect to petitions and inspection: "It was felt by some delegations that great care should be taken not to imply that the administering authority might be irresponsible, nor to belittle the administering authority in the eyes of the people administered."[27] It is easy enough to understand why there was more sensitiveness about the feelings of the nations than there was about the welfare of the peoples to be placed under trusteeship. The preamble of the Charter starts off with what is at best a half-truth, namely, "We the peoples of the United Nations." So far as representation is concerned, the peoples to be placed under trusteeship or who will remain as colonial subjects had no spokesmen at San Francisco. This is one of the reasons why this writer has frequently referred to the Charter as a "tragic joke."

Finally, the trusteeship provisions make possible the utilization of "volunteer forces, facilities, and assistance" from both the strategic and non-strategic areas[28] in action taken by the Security Council for the maintenance of international peace and security. One result of the second war to "make the world safe for democracy" is thus provision for the wider utilization of "savages" in "civilized warfare."

When the Trusteeship Council shall have been formally established, the trusteeship agreements published and the rules of procedure revealed, we shall be in a better position to evaluate Chapters XII and XIII. At the present time, this writer is extremely skeptical as to its effectiveness for the promotion of the ideals set forth as the basic objectives of the system. He hopes that he is wrong, but he fears that he is right.

Non-Self-Governing Territories

Although this article deals with the trusteeship system, it would not be complete without an examination of Chapter XI of the Charter. For if the Trusteeship Council will probably not be "swamped" with former colonies or protectorates, the provisions for those not placed under trusteeship are vitally important.

It has been previously pointed out that this Chapter contains the words "sacred trust" which are found in article 22 of the Covenant but not in Chapters XII and XIII of the Charter. Chapter XI, moreover, states that "the interests of the inhabitants of these [non-self-governing] territories are paramount" and that the nations holding them accept "the obligation to promote to the utmost, . . . the well-being of the inhabitants of these territories." Chapters XII and XIII do not specify the paramountcy of Native interests nor do they impose the obligation upon the administering authorities to do their "utmost."

On the other hand, Chapter XII specifies the "progressive develop-

[26] *Loc. cit.*
[27] *Ibid.*, p. 1040.
[28] *Ibid.*, p. 1039.

ment" of the trust territories toward "self-government or independence" whereas Chapter XI uses the circumlocution, "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." Independence as well as self-government is thus attainable under Chapter XI as they are under XII, but they are hedged about by dangerous limitations. There is, moreover, no provision for consultation to ascertain the wishes of the Natives as there is in Chapter XII.

Perhaps the most important paragraph in Chapter XI has been overlooked by analysts. Paragraph e of article 73 provides that the colonial powers are "to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply."

For the first time an international agreement places upon colonial powers the obligation to submit to an international agency reports concerning conditions in their colonies. It was, moreover, agreed in London last February that the Secretary-General is to include a summary of this information in his annual report to the General Assembly. It will be interesting to follow the discussions in the Assembly of the Secretary-General's summary of the reports of the United States about Puerto Rico, the Virgin Islands, Hawaii, Alaska, Guam, and the "gold" and "silver" employees in the Panama Canal Zone.

As usual, the architects of peace took away with the left hand a portion of what they had given with the right hand. It was no mere oversight that the paragraph dealing with these reports makes no mention of political conditions although the colonial powers have accepted the "sacred trust" to ensure political advancement as well as economic, social and educational. There is, as almost always, an escape clause—"subject to such limitation as security and constitutional considerations may require."

Chapter XI has also been interpreted as making possible the holding of international conferences on colonial matters. It seemed, indeed, at one time that such a conference would be held in the near future. But the proposal "got lost" in the State Department. When this writer proposed on April 30 to Mr. Charles Thomson, who is temporarily in charge of the section of the State Department dealing with the United Nations Educational, Scientific and Cultural Organization, that that organization might hold a conference on dependent peoples, Mr. Thomson referred him to the Acting Chief of the Division of Dependent Area Affairs.[29] It is to be hoped that UN will not wait for UNESCO while UNESCO waits for

[29] From the writer's diary. The other persons present at this conference were Miss Norma Boyd, Mrs. Josephine Kyles and Dr. Martin Jenkins.

UN. Meanwhile, neither the Trusteeship Council nor UNESCO has been constituted.

Conclusion

The reader has surely discerned two basic attitudes in this article. One is doubt as to the sincerity of the colonial powers. This doubt stems from a conviction that the so-called backward countries are increasingly necessary to the great powers as markets and as sources of man-power. Colonial subjects are among the most easily exploited customers on earth. A few of these dependent areas contain materials vital in the construction of atomic bombs. This writer does not pretend to know how important man-power will be in the atomic and bacteriological wars of the future. Until that question has been decided, world powers will probably continue to base their war plans upon large armies. And in the meantime, dependent peoples work at ridiculously low wages not only for the benefit of the capitalists and the industrialists but also for the benefit of the workers in industrialized countries. These workers need to be educated to the realization that so long as they insist upon low wages for the workers in the dependent areas so that the workers in industrialized countries may buy those products at a cheap price, they are as guilty of exploitation as are the capitalists.

The second prevailing attitude in this article has been a rather dim view about world public opinion, especially with respect to dependent areas. At the previously mentioned meeting at the Parkside Hotel on February 1, 1945, Dr. Emory Ross presented the guests to Mr. Arthur Creech Jones in these words: "You see before you all sixteen of the persons in the United States who are interested in the problem of dependent areas."[30] Dr. Ross was, of course, half-facetious. But if the exact number of persons in the United States and other countries who are concerned with trusteeship and non-self-governing territories were known, the fact would probably be more discouraging than the half-facetious understatement.

The publication of this Yearbook will, naturally, considerably increase the number of persons who realize that a just and lasting peace for all peoples can not rest upon the continued exploitation of millions of colored peoples aided by inadequate machinery for the prevention of that exploitation. Mayhap the instinct of self-preservation more than concern with the plight of underpaid, diseased, illiterate, dispossessed colored millions will some day create a powerful world public opinion that will demand the end of this degradation.

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[30] From the writer's diary.