

Tribunal insofar as the future is concerned. However, insofar as the past is concerned, we are not convinced that under the Staff Regulations in effect it can properly be said that the Tribunal exceeded its competence. A very careful study of the individual judgments would be required before an authoritative opinion could be produced. This study would involve consideration of complex questions of law which could not appropriately be decided by the Fifth Committee or the General Assembly.

Moreover, the Statute provides in Article 2.3 that "in the event of dispute as to whether the Tribunal is competent, the matter shall be settled by the decision of the Tribunal".

Further, in the cases under discussion the question of competence did not arise. The applications were submitted, with the agreement of the Secretary-General, directly to the Administrative Tribunal. If the Secretary-General felt that his exclusive jurisdiction was being encroached upon it was surely for the Secretary-General to raise the question.

Some delegations have also questioned the quantum of the awards, contending that in making them the Tribunal departed from recognized principles, and moreover, adopted varying criteria resulting in inconsistent and unreasonable awards. The Canadian Delegation itself has misgivings about the size of some of the awards. However, any review or revision of these awards should, if made, be made by a competent judicial body, since each judgment of the Tribunal was in every sense a judicial determination. Neither the General Assembly nor any of its committees is competent to conduct a judicial investigation of the kind necessary to adjudicate upon questions of law and fact.

It may be argued that the General Assembly as a sovereign legislative body has the "right" to legislate upon the judgments of the Tribunal. Even if this argument is accepted, to exercise that right would be to run in the face of recognized principles governing the separation of the legislature from the judiciary.

Moreover, an important question of principle is involved - namely that the right of the Secretariat as an international civil service should be protected by legal process. We do not think that it is proper to substitute for legal process a review of decided cases by vote in the Assembly.

I shall not take up the time of the Committee by repeating what other delegations have said here about the Tribunal's judgments being final and without appeal, and about the obligation of the Assembly, expressed in the Statute, to pay the awards fixed by the Tribunal. I think I have said enough to make it clear that the Canadian Delegation is convinced that the arguments in favour of paying the awards are very strong.

However, other delegations think otherwise, and we do not pretend to have a monopoly of legal wisdom. We would, therefore, be prepared to do what is usually done when such disputes arise - that is, to refer the questions raised to a court of higher jurisdiction. We do not wish to put forward a specific proposal at this time; but we feel that since legal arguments have been advanced both for paying the awards