

In its resolution of October 22, 1949, the General Assembly had decided to request an advisory opinion from the International Court of Justice on the following juridical questions. Do the diplomatic exchanges between Bulgaria, Hungary and Roumania, on the one hand, and certain of the Allied and Associated powers, on the other, disclose a dispute subject to the provisions for the settlement of disputes contained in the Peace Treaties? If such a dispute existed, were the three Balkan Governments obligated to appoint their representatives to the competent Treaty Commissions? In the case of failure on their part to appoint representatives, could the Secretary-General nominate the third member of the Commission upon the request of the other party to the dispute, and would such a Commission be properly constituted within the meaning of the relevant treaty articles?

Following the reference to the International Court of these questions, Canada presented notes to Hungary and Roumania on January 5, 1950, informing them of the appointment of the Right Honourable J. L. Ilsley as the Canadian member of the Treaty Commissions. On January 16, a reply was received from the Hungarian Government contending that no dispute existed; the Roumanian Government did not reply.

On March 30, a majority of the judges of the International Court of Justice delivered the opinion that a dispute could properly be said to exist and that the Governments of Bulgaria, Hungary and Roumania were consequently obligated to appoint their representatives to the Treaty Commission. On April 27, Canada presented further notes to Hungary and Roumania drawing their attention to the advisory opinion of the International Court on the first two questions submitted to it and assuming, in the light of the Court's decision, that the Governments of Hungary and Roumania would nominate their representatives to the Treaty Commissions. On May 26, the Hungarian Government replied that in its view no dispute existed and that neither the United Nations nor the International Court of Justice was competent to consider the issue. As in the case of the previous Canadian note, no reply was received from the Roumanian Government.

On July 18, the International Court gave its opinion on the remaining questions referred to it. The Court concluded that the Secretary-General was not authorized to appoint the third member of a Treaty Commission before the appointment of the other two members. In recording his dissenting opinion, however, Judge John E. Read of Canada warned that, to admit the contention that a party to a dispute may prevent its arbitration by the expedient of refusing to appoint a representative on a Commission specifically provided for the purpose, would be tantamount to an admission that any international engagement can be nullified by the deliberate failure of one of the signatory parties to abide by its procedural provisions for the settlement of disputes.

On the basis of the advisory opinion delivered by the International Court of Justice, the General Assembly, on November 3, adopted, by a vote of 40 in favour (including Canada), 5 against, with 12 abstentions, a resolution put forward by the Delegation of Australia and subsequently revised during the debate. The reso-