

CASE CONCERNING THE NORTHERN CAMEROONS

Judgment of 2 December 1963

Proceedings in the case concerning the Northern Cameroons, between the Federal Republic of Cameroon and the United Kingdom of Great Britain and Northern Ireland, were instituted by an Application of 30 May 1961 in which the Government of the Republic of Cameroon asked the Court to declare that, in the application of the Trusteeship Agreement for the Territory of the Cameroons under British Administration, the United Kingdom failed, with regard to the Northern Cameroons, to respect certain obligations flowing from that Agreement. The Government of the United Kingdom raised preliminary objections.

By 10 votes to 5 the Court found that it could not adjudicate upon the merits of the claim of the Republic of Cameroon.

Judges Spiropoulos and Koretsky appended to the Judgment Declarations of their dissent. Judge Jessup, while entirely agreeing with the reasoning in the Judgment of the Court, also appended a Declaration.

Judges Wellington Koo, Sir Percy Spender, Sir Gerald Fitzmaurice and Morelli appended Separate Opinions.

Judges Badawi and Bustamante y Rivero and Judge *ad hoc* Beb a Don appended Dissenting Opinions.

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In its Judgment, the Court recalled that the Cameroons had formed part of the possessions to which Germany renounced her rights under the Treaty of Versailles and which had been placed under the Mandates System of the League of Nations. It had been divided into two Mandates, the one administered by France and the other by the United Kingdom. The latter divided its territory into the Northern Cameroons, which was administered as part of Nigeria, and the Southern Cameroons, which was administered as a separate province of Nigeria. After the creation of the United Nations, the man-

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dated territories of the Cameroons were placed under the international trusteeship system by trusteeship agreements approved by the General Assembly on 13 December 1946.

The territory under French administration attained independence as the Republic of Cameroon on 1 January 1960 and became a Member of the United Nations on 20 September 1960. In the case of the territory under United Kingdom administration, the United Nations General Assembly recommended that the Administering Authority organise plebiscites in order to ascertain the wishes of the inhabitants. Pursuant to these plebiscites the Southern Cameroons joined the Republic of Cameroon on 1 October 1961 and the Northern Cameroons on 1 June 1961 joined the Federation of Nigeria, which had itself become independent on 1 October 1960. On 21 April 1961 the General Assembly endorsed the results of the plebiscites and decided that the Trusteeship Agreement concerning the Cameroons under United Kingdom administration should be terminated upon the two parts of the territory joining the Republic of Cameroon and Nigeria respectively (resolution 1608 (XV)).

The Republic of Cameroon voted against the adoption of this resolution, after expressing its dissatisfaction with the manner in which the United Kingdom had administered the Northern Cameroons and had organised the plebiscites, maintaining that the political development of the territory and the normal course of the consultation with the people had been altered thereby. These criticisms, together with others, were developed in a White Book which was rebutted by the representatives of the United Kingdom and of Nigeria. Following the adoption of the resolution the Republic of Cameroon, on 1 May 1961, addressed a communication to the United Kingdom in which it referred to a dispute concerning the application of the Trusteeship Agreement and proposed the conclusion of a special agreement for the purpose of bringing the dispute before the Court. The United Kingdom gave a negative reply on 26 May 1961. Four days later the Republic of Cameroon submitted an Application to the Court.

The United Kingdom then raised a number of preliminary objections. The first was that there was no dispute between itself and the Republic of Cameroon, and that if any dispute had at the date of the Application existed it was between the Republic of Cameroon and the United Nations. The Court found in this connection that the opposing views of the parties as to the interpretation and application of the Trusteeship Agreement revealed the existence of a dispute, at the date of the Application, in the sense recognised by the jurisprudence of the Court.

Another of the United Kingdom's preliminary objections was based on Article 32 (2) of the Rules of Court, which provides that when a case is brought before the Court the Application must not only indicate the subject of the dispute but must also as far as possible state the precise nature of the claim and the grounds on which it is based. Adopting the view expressed by the Permanent Court of International Justice, the Court considered that, its jurisdiction being international, it was not bound to attach to matters of form the same degree of importance which they might possess in municipal law. It found that the Applicant had sufficiently complied with Article 32 (2) of the Rules and that this preliminary objection was accordingly without substance.

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The Court then said that a factual analysis undertaken in the light of certain guiding principles might suffice to con-

duce to the resolution of the issues to which the Court directed its attention.

As a Member of the United Nations, the Republic of Cameroon had a right to apply to the Court and by the filing of the Application the Court had been seised. But the seising of the Court was one thing, the administration of justice was another. Even if the Court, when seised, found that it had jurisdiction, it was not compelled in every case to exercise that jurisdiction. It exercised a judicial function which was circumscribed by inherent limitations. Like the Permanent Court, it could not depart from the essential rules guiding its activity as a Court.

Resolution 1608 (XV), by which the General Assembly decided that the Trusteeship Agreement should be terminated with respect to the Northern Cameroons on 1 June 1961, had had definitive legal effect. The Republic of Cameroon did not dispute that the decisions of the General Assembly would not be reversed or that the Trusteeship Agreement would not be revived by a Judgment of the Court on the merits, that the Northern Cameroons would not be joined to the Republic of Cameroon, that its union with Nigeria would not be invalidated, or that the United Kingdom would have no right or authority to take any action with a view to satisfying the underlying desires of the Republic of Cameroon. The function of the Court was to state the law, but its judgments must be capable of having some practical consequences.

After 1 June 1961, no Member of the United Nations could any longer claim any of the rights which might have been originally granted by the Trusteeship Agreement. It might be contended that if, during the life of the Trusteeship, the Trustee was responsible for some act in violation of its terms which resulted in damage to another Member of the United Nations or to one of its nationals, a claim for reparation would not be liquidated by the termination of the Trust, but the Application of the Republic of Cameroon sought only a finding of a breach of the law and included no claim for reparation. Even if it were common ground that the Trusteeship Agreement was designed to provide a form of judicial protection which any Member of the United Nations had a right to invoke in the general interest, the Court could not agree that that judicial protection survived the termination of the Trusteeship Agreement; in filing its Application on 30 May 1961, the Republic of Cameroon had exercised a procedural right which appertained to it, but, after 1 June 1961, the Republic of Cameroon would no longer have had any right to ask the Court to adjudicate at this stage upon questions affecting the rights of the inhabitants of the Territory and the general interest in the successful functioning of the Trusteeship System.

The Republic of Cameroon had contended that all it sought was a declaratory judgment of the Court, that prior to the termination of the Trusteeship Agreement the United Kingdom had breached its provisions. The Court might, in an appropriate case, make a declaratory judgment but such a judgment must have a continuing applicability. In this case there was a dispute about the interpretation and application of a treaty, but the treaty was no longer in force and there could be no opportunity for a future act of interpretation or application in accordance with any judgment the Court might render.

Whether or not at the moment the Application was filed there was jurisdiction in the Court to adjudicate upon the dispute, circumstances that had since arisen rendered any adjudication devoid of purpose. Under these conditions, for the Court to proceed further in the case would not, in its opinion, be a proper discharge of its duties. The answer to the question whether the judicial function was engaged might, in certain cases, need to wait upon an examination of the merits. In the

present case, however, it was already evident that it could not be engaged.

For these reasons the Court did not feel called upon to pass

expressly upon the several submissions of the United Kingdom and found that it could not adjudicate upon the merits of the claim of the Federal Republic of Cameroon.
