

of which will be placed in the archives of the Court and the others transmitted to the Government of the Federal Republic of Cameroon and to the Government of the United Kingdom of Great Britain and Northern Ireland, respectively.

(Signed) B. WINIARSKI,
President.

(Signed) GARNIER-COIGNET,
Registrar.

Judge SPIROPOULOS makes the following declaration:

I do not share the view of the Court. I consider that the Application of the Republic of Cameroon is admissible and that the Court has jurisdiction to examine the merits of the dispute of which it is seised.

Judge KORETSKY makes the following declaration:

I cannot agree with the Judgment of the Court, as it has been reached without observance of relevant rules and principles laid down in the Rules of Court.

The Judgment was adopted in the stage of an examination of a preliminary objection, which delimits itself quite precisely from the stage of an examination of the merits of an Application. The Court passed by the question of its jurisdiction and turned to the question of the inadmissibility of the claims of the Republic of Cameroon.

If the question of inadmissibility is raised, not on the ground of non-observance of the purely formal requirements of the Rules, e.g. non-observance of Article 32 (2) of the Rules, but in respect of the substance of the Application (*ratione materiae*), then the Court should first decide on its jurisdiction and subsequently consider the plea of inadmissibility. This is a broadly accepted rule. I venture to cite, from among many authoritative opinions, the statement of Judge Sir Percy Spender in his Separate Opinion in the *Interhandel* case (*I.C.J. Reports 1959*, p. 54) that the Court was obliged first to satisfy itself that it has jurisdiction and then to treat a plea to the admissibility of the Application. The same was said by Judge Sir Hersch Lauterpacht in his Dissenting Opinion (*ibid.*, p. 100) "that according to the established practice of the Court preliminary objections must be examined—and rejected—before the plea of admissibility is examined".

But the Court has said in this case, without dealing with the question of its jurisdiction, that a judgment on the claims of the Republic of Cameroon "would be without object"—that is, the Court has appraised Cameroon's claims on their merits. Such an appraisal could only be made at a later stage in the proceedings (on the merits), and by such an appraisal the Court substituted for the stage of deciding on preliminary objections to jurisdiction the stage of deciding the case on its merits.

One cannot regard rules of procedure as being simply technical. They determine not only a way of proceeding but procedural rights of parties as well. Their strict observance in the International Court of Justice, one might say, is even more important than in national courts. The Court may not change them *en passant* in deciding a given case. A revision of the Rules of Court should be effected (if necessary) in an orderly manner and, in any case, the changed rules should be known to parties beforehand.

Thus the Court, in accordance with the Rules of Court, ought first to have decided whether it had—or had not—jurisdiction in this case without prejudging its future decision in this case on the merits and then, observing the Rules of Court, to have passed to a further stage of the proceedings connected with the examination of the claims of the Republic of Cameroon on their merits.

Judge JESSUP makes the following declaration:

In view of the reasoning in the Judgment of the Court, with which I entirely agree, I do not find it necessary to explain why I believe that, if it were necessary to pass upon the jurisdictional issues which have been raised, the reasoning in pages 422 to 436 of my Separate Opinion in the *South West Africa* cases (*I.C.J. Reports 1962*, p. 319) would be equally valid here.

Judges WELLINGTON KOO, Sir Percy SPENDER, Sir Gerald FITZMAURICE and MORELLI append to the Judgment of the Court statements of their Separate Opinions.

Judges BADAWI and BUSTAMANTE Y RIVERO and Judge *ad hoc* BEB A DON append to the Judgment of the Court statements of their Dissenting Opinions.

(Initialled) B. W.

(Initialled) G.-C.