

represented on the Tribunal were Australia, Canada, China, France, U.K., India, Netherlands, New Zealand, Philippines, Soviet Union and the United States. India's representative was Justice R. B. Pal. The judgment of the Tribunal was delivered on November 4, 1948.

In November 1952 the question of clemency to Class "A" of the Japanese war criminals sentenced by the Tribunal was referred by the Government of Japan to the Government of India and other members of the Tribunal. Subsequently the United States Government informed the Japanese Government that jurisdiction in the question of clemency was restricted to countries which were represented on the Tribunal and which had signed and ratified the San Francisco Peace Treaty. The United States Government further asserted that as India did not sign that Treaty, her vote should go to Pakistan which had signed and ratified the Treaty and which should be now deemed the successor State to India. Similar views were expressed by the six other Governments mentioned above.

The Government of India consider both these contentions contrary to international law and practice.

India's right to participate in the clemency proceedings was inherent in her membership of the International Military Tribunal. The Supreme Commander, Allied Powers, enjoyed the power to grant clemency etc. as an agent of the countries which were represented on the Military Tribunal. With the cessation of his office, this power automatically reverted to the member Governments which actually imposed the sentences on the Japanese war criminals. The San Francisco Treaty which was concluded later between third parties cannot take away this right.

The Government of India also consider that the inclusion of Pakistan in the clemency proceedings as successor of India, because Pakistan signed the

San Francisco Treaty and India did not, is unwarranted and legally untenable. Membership of the International Military Tribunal for the Far East was not extended to all the countries which were at war with Japan but was limited under the terms of the Charter of the Tribunal to a certain number of countries. India was represented on the Tribunal since its inception by Dr. R. B. Pal who pronounced judgment on November 4, 1948, 15 months after partition of the Indian sub-continent. Dr. Pal therefore represented only the Government of India which in fact was a member of the Tribunal which imposed sentences on the Japanese war criminals. Since the power to grant clemency in international law can rest only with the Governments which formed the Tribunal and which imposed sentences, and since Pakistan is not in any sense a legal successor to India, the claim to include that country in the clemency proceeding is legally untenable.

The Government of India drew the attention of the Governments concerned last year to these considerations and assert once again that the action taken by these Governments is a negation of the principles of international law and practice.

MOTION FOR ELECTION TO THE PUBLIC ACCOUNTS COMMITTEE AND PROGRAMME OF ELECTION THERETO.

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): Sir, I beg to move:

"That this Council concurs in the recommendation of the House of the People that the Council of States do agree to nominate seven Members from the Council to associate with the Public Accounts Committee of the House for the year 1954-55 and do proceed to elect, in such manner as the Chairman may direct, seven Members from among themselves to serve on the said Committee."

SHRI B. GUPTA (West Bengal): Sir, I have given notice of a motion for papers.

SHRI S. N. DWIVEDY (Orissa): Sir, before you put this motion for acceptance, I want to know one thing.

MR. CHAIRMAN: I am not putting it for acceptance. I am merely putting the motion.

SHRI S. N. DWIVEDY: There is one clarification, Sir.

MR. CHAIRMAN: Motion moved:

"That this Council concurs in the recommendation of the House of the People that the Council of States do agree to nominate seven Members from the Council to associate with the Public Accounts Committee of the House for the year 1954-55 and do proceed to elect, in such manner as the Chairman may direct, seven Members from among themselves to serve on the said Committee."

SHRI S. N. DWIVEDY: Sir, as the motion stands at present, it is said "that the Council do nominate seven Members to associate with the Public Accounts Committee of the House". May I know whether it is a Committee of the Parliament or of the House of the People, and, whether, Members who will be nominated from the Council would be full-fledged Members or only associate Members?

SHRI SATYA NARAYAN SINHA: May I clarify this point, with your permission, Sir?

So far as a clarification of this point is concerned, I would like to say that so far as the power, function or status of a Member is concerned, there is absolutely no difference between the Members of this House and that House.

SHRI B. GUPTA: May I draw your attention to the notice I gave for a Motion for Papers to discuss the question of refugees who are returning from Orissa?

MR. CHAIRMAN: That is not the point now. There is a motion before the House.

SHRI B. GUPTA: I understand, Sir, that the Government wishes to make only a statement.

MR. CHAIRMAN: Mr. Bhupesh Gupta, we are considering this motion. Let us dispose of it before we think of another.

SHRI RAJAGOPAL NAIDU (Madras): Mr. Chairman, if what the hon. Minister has said is correct, namely that the powers of the Members of the House of the People and that of the Members of this Council are equal, may I know why he has used the word "associate"?

SHRI S. N. DWIVEDY: And why the word "House" then?

SHRI SATYA NARAYAN SINHA: "Associate" does not mean "Associate Members". There is a difference. If you ask them to associate with a thing it does not mean that they are Associate Members. I have made the position perfectly clear that so far as the power, function or status is concerned, there is absolutely no difference between the Members of this House and those of the other House.

SHRI S. N. DWIVEDY: What I wanted to know is, why is it that it should be called a Committee of the House instead of being called a Committee of Parliament?

SHRI SATYA NARAYAN SINHA: Because the Public Accounts Committee existed there before and when this motion was moved asking the Members of the House to associate themselves with that Committee, that particular word came in—I do not know—but you should not fight over the word. Another thing is that you have got to submit the report of that Committee to the Speaker and, therefore, it does not matter and, so far as the Members are concerned, I have already said that there is absolutely no difference whatsoever.

DIWAN CHAMAN LALL (Punjab): May I say one word in regard to this matter? What the hon. Minister has said is probably correct, namely, that there is no difference, but there is a

very serious apprehension in the minds of the Members of this House that certain of their privileges are being whittled away by the use of certain expressions and the manner of choosing them. It is a very serious matter as far as the Members of this House are concerned. If it is right that we have a right to sit on the Public Accounts Committee as full-fledged Members, I cannot see what advantage there is in proposing motion of this kind which is contrary to all precedents, asking Members of this House merely to associate themselves with the Members of the Committee which is not a Committee of Parliament but which is described as a Committee of the other House. I do submit, Sir, that this is a serious enough matter because other issues may arise out of it and we are all fully aware of the conflict—I will not hide matters—in regard to this matter and we must take a stand in regard to this matter and, in respect of the privileges of the Members of this House, further clarification is necessary. Is this merely a Committee of the other House? If it is so, then the expression “associate” is correct; we are not part and parcel of that Committee. If it is a Committee of the other House, then it is not a Committee of Parliament. The position that we have taken up always in this House is that this is a Committee of Parliament and that it is not a money matter like the Estimates Committee—we do not sit in that Committee—but that we have a right to sit as full-fledged Members of the Public Accounts Committee. Therefore, Sir, it is for you to decide and for the Members of this House to decide how far expressions that have been used in order to associate Members of this House with the Public Accounts Committee are an acceptable proposition, as far as Members of this House are concerned, and how far it is acceptable to Members of this House that the Committee itself should be described merely as a Committee of the other House. Are we or are we not full-fledged Members of the Committee of Parliament? It is an issue

which should not be brushed aside merely in a form of words because the issue is a substantial issue and we must have that clarification here on the floor of this House.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): May I say a word, Sir? To me it appears that the wording of this motion and that of the motion for reference to a Joint Select Committee is really the same. In the Joint Select Committee the powers of Members of the two Houses are exactly the same. So, if the wording is the same as that of a Joint Select Committee motion, this question should not arise at all. As far as I remember, the wording of this as well as the wording of other motions for Joint Select Committee in the other House is just the same but I would like to have clarification on the point.

SHRI K. S. HEGDE (Madras): Mr. Chairman, it is better to have a clear view of what is being placed before the House, and then also to consider the best approach to the matter. There is hardly any gainsaying the fact that the motion as placed before the House makes something absolutely clear. One thing that it makes clear is that the Committee is a Committee of the House of the People and not of the Parliament. Secondly, we will be associated with it—in whatever context the word might be used—and the report in question will be submitted to the House of the People and to the Speaker of the House of the People. These are absolutely clear. We are not concerned with those things but the question before us is, what shall we do in the light of circumstances that are placed before us? I am next to none in my fight for the privileges of this particular House but oftentimes the question is, how best to fight. That is the question. Let me not discuss the fact that I am not quite happy with the form of the motion which is placed before the House, but let me again say: Let us not make this fight between the two Houses grow in proportions and make ourselves the laughing stock in the

[Shri K. S. Hegde.]

eyes of the public. Now this motion was passed by the House of the People a long time back in an amended form. It was the amendment of the Prime Minister and it was accepted by the House according to which the Council would be associated with the Committee and the report would be given to the House of the People. Even demanding it as a right is not something very logical. The rights are historical. In a country like England, for obvious reasons there is no joint committee of the two Houses because the House of Lords has no money rights at all. But other constitutions confer different rights. Though we may not have the right to grant any items we have a right to scrutinise the accounts and in fact the accounts will have to be examined by us. So, logically speaking, there was nothing absolutely wrong in having a Parliamentary Committee and its report being submitted to the two Houses. So in this matter ultimately a compromise formula has been arrived at and it was at the instance of the Prime Minister. We know it, Sir, and this House must be grateful to the hon. the Prime Minister for the interest he has taken in the matter and for the way in which he has championed the rights of this House oftentimes, and as *such* we will be compromising his position also by taking up an extreme attitude in matters like this. We have many rights still to be fought for. It is true that we are rather uncomfortable with the wording in the motion but yet I would ask the House, in the interest of the House itself, in the interest of the privileges for which we are fighting today: Are we not safeguarding it better, are we not strengthening it better by compromising on certain things and conceding certain things? In all these things we must make attempts to arrive at a compromise and by so doing we can in the long run consolidate our rights in a far better manner than what we are doing today. We can certainly place our grievances before this House but if we go on fighting with the other House on every minor matter, then

matters will become worse and we should not force the issue to such an extent that it should be decided that one or the other House must get predominance and by so doing we will be putting an end to the rights that we are today enjoying. As such it is better that we agree to the proposal that is placed before the House and accept it rather than go on allowing the controversy to further develop.

May I place one other matter before the House? Suppose we do not accept the motion that is placed before the House; what happens? We certainly cannot have an accounts committee during this session. It will go to the next session undoubtedly and more difficulties are likely to crop up. In the circumstances, as practical men and as men of prudence let us accept this motion that is placed by the Minister for Parliamentary Affairs.

SHRI H. P. SAKSENA (Uttar Pradesh): Mr. Chairman, I am afraid my friend, Mr. Hegde was off the track while speaking. Nobody has suggested that this House should not accept the motion. What we wanted was a little clarification of the word 'associate' that was used in the motion. I perfectly agree with my esteemed friend, Mr. Sinha, that the word 'associate' is used in the ordinary sense of the English language and it does not mean that it is used to reflect on the Members of this House. We are simply asked to agree to work along with the Members of the House of the People and therefore there is nothing wrong in it. It is not advisable, as Mr Hegde also suggested, to make any fuss about the word "associate".

SHRI B. GUPTA: Sir, our views on this question are fairly known. From the long-term point of view, Sir, it is known that we are for one Chamber Legislatures in the country, whether at the Centre or in the States. But as long as two Houses sit, whether here or in the States, it should be our endeavour to see that they function in harmony and in understanding. But unfortunately the policy of the Government has been, or the policy at least

of some people in the Government and some people high up is, to heighten the tension which exists between the two Houses. Since they are interested in easing tension elsewhere, in the international field, I think they would do well to relieve the tension between the two Houses. Therefore, Sir, the hon. Minister-in-charge of Parliamentary Affairs has become somewhat of a Minister-in-charge of Parliamentary "mis-affairs" because the mismanagement seems to be rather uncontrollable. Therefore, I would ask him, if I may, that he should in consultation with the Members of both Houses arrange matters in such a way that it does not lead to this kind of acrimonious or insinuating debates which increase the tension between the two Houses. If suitable arrangements can be made with a view to relieve such tension and promote harmony and co-operation between the two Houses, he should direct his efforts in that direction. We want a Parliamentary Minister who knows how to run the parliamentary affairs smoothly and in harmony, and not a Parliamentary Minister who behaves in a manner which makes a Dulles out of this and that Member of Parliament when it comes to the relations between the two Houses.

SHRI AKBAR ALI KHAN (Hyderabad): I think the point is whether having regard to the limitations of the Constitution before us, we are entitled to be members of this committee or not. If it is not the question and if we have the right to sit in that committee, then I think, Sir, it is proper that the word "House" should be removed and the word "Parliament" should be substituted for it.

MR. CHAIRMAN: I think Members know the history of this motion and I need not repeat it. There is a well-known biblical saying: "All things may be lawful, but not all things are convenient." We are there in pursuance of a motion which was submitted to us in December last in the very same words which are used today: "That the Council of States do agree to nominate

seven members from the Council to associate with the Public Accounts Committee." That was the motion which came to us last time. So it is not a matter of any concession or sufferance. It is a matter of right in accordance with the motion of Parliament accepted by this House. It has also been made quite clear by the Minister for Parliamentary Affairs that we work in that committee on terms of absolute equality with other Members. In the uncorrected report of the proceedings of the House of the People, the Speaker has said: "So far as the deliberations, voting and other things are concerned, they are of the same status." So the statement made by Shri Satya Narayan Sinha is the same as that by the Speaker, or the statement made by the Speaker has been repeated by Shri Satya Narayan Sinha. So we have a right to sit there now and our rights are absolutely the same as the rights of the other Members. The point is that the rules which govern the deliberations of this Committee will be the rules of the other House. Therefore, it is that all this confusion has arisen. What I would deprecate very much is accentuation of small differences. I would advise the House to accept the motion and use their rights to the best advantage.

The question is:

"That this Council concurs in the recommendation of the House of the People that the Council of States do agree to nominate seven Members from the Council to associate with the Public Accounts Committee of the House for the year 1954-55 and do proceed to elect, in such manner as the Chairman may direct, seven Members from among themselves to serve on the said Committee."

The motion was adopted.

MR. CHAIRMAN: I have to inform the Members that 15th May, 1954, has been fixed as the last date for receiving nominations, and 17th May for holding elections, if necessary, to the Public Accounts Committee.

[Mr. Chairman.]

The nominations will be received in the Notice Office up to 12 noon on the 15th May. The elections which will be conducted in accordance with the system of proportional representation by means of the single transferable vote will, if necessary, be held in Secretary's room (No. 29, Ground Floor, Parliament House) between the hours 9 A.M. and 11 A.M. on the 17th May 1954

SHRI B. C. GHOSE (West Bengal): May I make just one submission? I don't want to create any acrimony...

MR. CHAIRMAN: That question is over.

THE DENTISTS (AMENDMENT) BILL, 1953

THE MINISTER FOR HEALTH (RAJKUMARI AMRIT KAUR): Sir, I beg to move for leave to withdraw the Bill further to amend the Dentists Act, 1948.

MR. CHAIRMAN: Motion moved:

"That leave be granted to withdraw the Bill further to amend the Dentists Act, 1948."

PANDIT S. S. N. TANKHA (Uttar Pradesh): May we know what is the reason for seeking leave for the withdrawal of the Bill?

SHRI B. GUPTA (West Bengal): Yes, let us hear the reasons.

RAJKUMARI AMRIT KAUR: This Bill was introduced in the Council of States on 22nd December 1953. Since then I have received representations to bring in further amendments and to make the Bill more comprehensive. So I want to introduce another Bill.

MR. CHAIRMAN: The question is:

"That leave be granted to withdraw the Bill further to amend the Dentists Act, 1948."

The motion was adopted.

THE DENTISTS (AMENDMENT) BILL, 1954

THE MINISTER FOR HEALTH (RAJKUMARI AMRIT KAUR): Sir, I beg to move for leave to introduce a Bill further to amend the Dentists Act, 1948.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Dentists Act, 1948."

The motion was adopted.

RAJKUMARI AMRIT KAUR: Sir, I introduce the Bill.

ARREST OF REFUGEES BY WEST BENGAL GOVERNMENT

SHRI B. GUPTA (West Bengal): Sir, you are aware that I gave notice of a motion for papers to discuss the question of refugees who are now returning from Orissa and are now being arrested by the West Bengal Government. I have come from Calcutta; I was there until yesterday and I found these refugees were being arrested. The West Bengal Government says that it is a matter for the Central Government to decide as to how they should be treated and they have given us to understand that they are awaiting the decision of the Central Government and the stand that the latter is going to take. Therefore I consider the matter of great public importance and it should be taken up for discussion for half an hour before we adjourn for the next session.

MR. CHAIRMAN: We will consider.

THE COMPANIES BILL, 1953— *continued*

SHRI P. T. LEUVA (Bombay): Mr. Chairman, yesterday I was referring to the question of interlocking of funds. Now, it is generally believed that interlocking of funds is not in the interest of the companies, but there might be cases where interlocking of funds might be