

so forth. Now, with regard to these, I entirely agree with Mr. Hegde that his interpretation is quite correct as far as it goes, namely that article 148(3) applies and has got to be read along with article 377 only in respect of those matters which are specifically mentioned in article 377. There is no doubt at all about this. But then there is again one little fallacy. As has been very ably pointed out by the Finance Minister, the provisions of article 377 are again only protective. The protection is that Parliament by law shall not curtail the privileges which are already enjoyed by the Comptroller and Auditor-General. That is the protection. And therefore the effect of the entire argument of hon. Shri Hegde is that the protection offered by article 377 will be only in respect of those matters and no more. The protection will operate only in respect of those matters which are specifically mentioned in article 377 and no more. If there are other matters outside article 377 then the protection offered by article 377 will not operate in respect of these matters at all, but what will operate will be article 148 as a whole because 148 has to be read along with 377.....

MR. DEPUTY CHAIRMAN: We will continue tomorrow, Dr. Barlingay. **There is the Half-an-Hour discussion now by Dr. Seeta Parmanand.**

SHRI RAJAGOPAL NAIDU: Sir, before we proceed to the next business marked for the day, may I suggest that in spite of the Attorney-General's opinion there seems to be a unanimous opinion from all sections of the House that somehow or other, the Attorney-General's opinion has not convinced the House thoroughly? May I suggest therefore, Sir, in view of the provisions of article 88 of the Constitution, the Attorney-General of India can be asked to come to the House? He has every right to take part in the proceedings of the House. May I therefore request the Deputy Chairman on behalf of the House to request the Attorney-General to be present in the

House tomorrow so that he can take part in the proceedings and enlighten us further on this matter?

MR. DEPUTY CHAIRMAN: Government will consider that.

SHRI H. N. KUNZRU: If the suggestion is admissible, may I suggest that he should be asked to consider the matter again in the light of the observations made here.

SHRI C. D. DESHMUKH: That will be done in any case.

HALF-AN-HOUR DISCUSSION ON SMUGGLING OF GOLD

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Sir, as the House is aware that with regard to question No. 400 on the 15th April 1953 on the smuggling of gold, the feeling was general in the House that the Government was not able to supply all the necessary information asked for. Government had enough time to collect all the information necessary as the question was on the agenda even about 3 weeks earlier and at a certain stage was withdrawn and then it came up for discussion at a later stage. Sir, the smuggling of gold is a very serious offence, and as all would agree, especially when that offence is committed by people of high cultural status, moneyed people, people who enjoy high repute, people who had made it an international affair in conspiracy with foreigners, and people with diplomatic status, it becomes a very serious offence indeed, and this is the reason why this half-hour discussion was requested to throw some light on such an important matter, and with a view to pointing out to the Government that clemency in such matters does not help anybody, does not help the Government, does not help the people concerned but only causes confusion about the Government's policy. Sir, everyone is aware and particularly I am sure the hon. the Finance Minister who is so well-versed in Sanskrit, is aware that according to

[Dr. Shrimati Seeta Parmanand.]
our ancient scriptures, the greater the status of the offender, the greater should be the penalty for the offence. It is said in Gita:

“यद् यदाचरति श्रेष्ठः तत्तदेवेतरो जनः ।
स यत्प्रमाणं कुरुते लोकस्तदनुवर्तते ॥

So, Sir, if people in high positions are allowed to escape with light punishment, without their offence being given due publicity, the common people will think that committing such an offence is not of much consequence and therefore they can follow suit.

MR. DEPUTY CHAIRMAN: You call the smugglers ‘Sreshtas’?

DR. SHRIMATI SEETA PARMANAND: Smugglers are not ‘Sreshtas’. I should have thought that was obvious but I am coming to that. These people, Messrs. Premchand Roychand are connected with big donations to the Bombay University and with substantial scholarships. So, I would say that people who have connections with a university should at least follow the oath administered by every Vice-Chancellor to every graduate that “ever by his manner and conversation be he worthy of the same” i.e. of the honour conferred on him. So, it was more incumbent on those people to follow this precept. The Government said in reply that since the firm was of great repute and this was their first offence, they took a lenient view. I would ask whether in such cases, even if it were the first offence, a grave view should not have been taken. Since the time at my disposal is limited, I would only mention the points which make the offence a serious offence indeed and on which Government might have given at that time more complete information. Sir, the partners of this firm, Mr. Kikabhai Premchand and Mr. Maneklal Premchand, are Directors even today of the Central Bank of India and the Bank of India, and when Government were asked whether they were Directors or not, they said that they had no information. That was not the reply to be given on such an important

matter, when they had so much time to collect information. There were two French accomplices in this case. One was apprehended, and the other French accomplice was asked to report to the police twice a day but he was allowed to escape from the country. If this had not happened, he might have been more useful. His evidence was that gold to the tune of Rs. 46 lakhs was smuggled, and about a similar amount worth of gold was smuggled by a foreign diplomat enjoying diplomatic privilege. Even though he was protected by diplomatic privilege, if the Government had made use of the French witness, if the Government had taken the risk of taking the case to the High Court, it would have done a lot of good and it would not have been possible for this firm to have had all this hush-hush about it to the extent there has been. The Income-tax Investigation Commission has also recommended that even in the comparatively minor offence of evasion of income-tax, the names of the people concerned should be publicised, and in this case, whatever the handicaps, whatever the immunity enjoyed by some of the international conspirators on account of the protection of diplomatic privilege the Government should have allowed the case to go to court with a view to giving it due publicity. Even if Government had lost the case, everybody would have known that the case was lost not because the offenders were not offenders but because of lack of proper evidence and because of some of the persons concerned were people enjoying diplomatic privilege. These things should not have deterred the Government. And then Government were not able to give any information on whether these people were charged with not disclosing their income in connection with the payment of income-tax. Information should not have been kept back from the House. Similarly, when it was asked whether a high power electric furnace was being used by these people in their house, the reply was that it was not in their own house. Whether it was installed in their own house or whether it was anywhere outside should not make

any difference. The attitude should be to expose these people and not to protect them.

Then I would also like to point out that Government should have agreed to the suggestion made by the hon. Mr. Ranga to lay the papers on the Table of the House. If keeping back some papers concerning the diplomatic personnel was necessary, Members would not have minded that. Sir, I would like to mention that this was an international conspiracy, and even if the persons connected with this conspiracy were prominent people, it does not take away from the fact that they were guilty, and as such, in order to inspire confidence, the Government should not only have removed them from the list of certified brokers of the Reserve Bank but should have taken steps to see later on that such people were removed from the Directorship of Banks which are very important banks, as this is the only way in which the public can be made to have confidence in the Government. Clemency in such cases is really misplaced. Nobody has anything to say about the hon. Finance Minister's ability and his judgment, but I would say that sometimes he is very much moved by kindness and in this case kindness has been misplaced because in the interest of the public one has to be very hard hearted and even if it is one's own son or brother, one has to bring the culprit to book. I would remind the hon. Finance Minister who is here today and who was not here that day, that these people who have benefited at the hands of Government and had their face saved to some extent, that only on the 15th April when this question was being discussed here, perhaps at that time or a little later, one of these partners—Mr. Premchand—made a speech in Bombay, and I have attached the cutting to my application which I have given to the Government, accusing Government or criticising the Government for not living up to their professions, with reference to the Estates Duty. Perhaps he was criticising some other measures of the Government too. If such people who have

really have had so much mercy shown to them don't stop turning against the Government, I think even today, at the risk of the case being reopened if it is not time-barred, the Government should not hesitate to bring these people to book. I would like to mention here that the object in bringing this discussion to the House is to bring home to Government the urgent need to take a serious view of corruption if the Government's development plans, particularly the Five Year plans, are to succeed. Public cooperation, it has been mentioned so many times, depends on wiping out corruption from all stages.

THE FINANCE MINISTER (SHRI C. D. DESHMUKH): I would ask the hon. Member as to how it is corruption.

DR. SHRIMATI SEETA PARNANAND: This is worse than corruption. There is no word for it. What I am saying is that this is part of an international conspiracy. I call it as an international conspiracy because there are people from other countries involved in this and 4 or 5 of them on three occasions had made a habit of landing gold by planes. I may mention this point also that the law will have to be changed with regard to jurisdiction. The question of jurisdiction would arise when seizure is made in one place and the offence is committed in another place. From that point of view it would be better also to change the law for the future.

I would go on with the point which I was raising before I was interrupted. I was saying that corruption is an offence of smaller degree than this type of offence. It is a relative term. If we want people who don't understand these fine distinctions—the common people—to believe that Government will not—whatever be the position socially and financially of the person, whatever be the reputation of his ancestors for having given funds to educational or charitable purposes—spare the persons when they are found guilty and see that they also behave properly then they should have taken proper action in these matters. For that reason I would again emphasise

[Dr. Shrimati Seeta Parmanand.] that, though one has no quarrel with the ability of our hon. Finance Minister who happened to be the arbitrator in this case—it would have been much better if he had not accepted knowing his kind-hearted nature, to arbitrate and this should have been given to somebody more hard-hearted, it would have been much better if even today Government should lay the papers on the Table of the House and take the House into confidence and inspire confidence into the people in general who may otherwise feel that Government when it is out to pass such laws against bribery and corruption by bringing bribe-giver on the same line as the bribe-taker and very many other laws, —still when it comes to action, they are not prepared

1 P.M.

to implement their professions. If Government insists on rooting out corruption and raising the morale of our people with a view to raising their enthusiasm and enlisting public cooperation, if Government wants to give effect to its own legislations and if it wants them to be taken seriously, then the Government must take the necessary action when such cases come to their notice by chance. When they get this chance, the people concerned must be dealt with properly. They do not get this chance often, because these moneyed people take good precautions to screen away all evidences of their guilt, but the people would come forward and help the Government if Government means to do what it preaches. So I would even now request the Government to keep back only a few papers with regard to diplomatic privileges and then lay on the Table the other papers, at the risk even of the case being re-opened. Let it be re-opened, it may mean a loss of say Rs. 10 lakhs or so, that need not be much of a consideration, for it should be shown to the people that Government does bring to book people concerned, whatever their social and other position may be.

THE DEPUTY MINISTER FOR FINANCE (SHRI A. C. GUHA): Mr.

Deputy Chairman, Sir, the hon. lady Member wants to raise during this debate certain points as regards the smuggling of gold by Premchand Roychand Company. This question was discussed in this House in the course of a question, for about fifteen minutes and I think there were about 32 or 33 supplementaries on that main question. That might be considered to be a record for any particular question, as regards supplementaries. Well, there has been no reluctance on the part of Government to place the relevant facts before this House. I find, Sir, that in the notice submitted by the lady Member she has raised the following points. The first was that "According to Government the firm is very old and of good repute and it was its first offence but the question whether the foreign dignitary had not deposited smuggled gold with this very firm remained without a convincing reply", and so proper punishment was not meted out. Sir, the punishment that was given to this firm was on their acceptance that they were concerned in handling some smuggled gold. When the initial punishment was given on the acceptance of this complicity, they appealed to the Central Board of Revenue; the Central Board of Revenue also accepted this point of view and ultimately when the Finance Minister arbitrated, he also came to the conclusion that *prima facie* this firm was concerned in the handling of the gold deposited with them by some foreigners. So I think there is no ground for stating that this side of the question remained without being given a convincing reply.

The second point was that "Government had no information whether the firm had disclosed this income under the Income-tax Act". Sir, I think during the supplementaries it was stated that in the accounts book of the firm, there is an entry of the last transaction for which this firm was penalised and for which income-tax is being assessed. As regards the other transactions that is a point which is yet to be established whether that firm was really involved in such transactions. I am not sure what is to be

done in that case. Mr. Passardiere made a statement. Actually he made three statements and not all of them are consistent with one another. They are self-contradictory statements and in not all these statements he stated that this firm was involved in four transactions.

Besides that, Sir, before making his final statement in the court, he wrote a letter withdrawing all his two previous statements. Sir, he is a co-accused, almost what we can call a King's witness. So, we have yet to prove that this firm was involved in the three previous transactions. Moreover, there were statements made by two other foreigners involved in this conspiracy and there was no mention about three other previous transactions with this firm. So it is on very flimsy ground that this hon. lady Member has taken for granted that this firm was involved in four transactions in all. Yet, Sir, I can say that the Income-tax Department is seized of this question.

Then, the third point is "Government had no information whether these people, whose fines were drastically reduced and who in spite of being of 'good reputed', were Directors of two leading Banks". Sir, I would like to refer to the answer that was given by me. The question of Dr. Seeta Parmanand was: "Are these people Managing Directors of the Central Bank, the Bank of India?" and my reply was "I have no information on that". That does not mean that the Government has no information. I think you will agree, Sir, that no Minister can come here furnished with all the informations that might be available with the Government. Her next question was "if they are Managing Directors, has the Reserve Bank of India got the power to remove any Directors for misconduct?" to which my reply was "As far as my information goes, they are not Managing Directors of that Bank". Then the lady Member asked "Are they Directors?" and my reply was "The hon. Member should know that the Reserve Bank has got certain powers over all banking companies

and, wherever necessary, the Reserve Bank of India would exercise that power". The question was repeated again "Whether they are Directors of any Bank" and my reply was.....

(Interruptions by Dr. Shrimati Seeta Parmanand.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI A. C. GUHA:.....that I had no information and even here, I would like to say, that it is not that the Government had no information. I would humbly plead that no Minister can come before this House provided with all the informations available in all the files of the Government.

MR. DEPUTY CHAIRMAN: What is the information that hon. Minister has today?

SHRI A. C. GUHA: Two of them are Directors of two Banks. That information was not available with me then and I said "I have no information as to whether they are Directors of any Bank"?

KHWAJA INAIT ULLAH (Bihar): Is it available today?

DR. ANUP SINGH (Punjab): Do you have the information now?

SHRI A. C. GUHA: This firm is not an individual proprietary firm. It is a partnership firm. During the course of our investigation, only one partner was mentioned, in all the statements and in all the evidences, as being involved in this conspiracy or whatever you may call it. But, there are two other partners of this firm who are Directors of other firms. Sir, when one partner of the guilty firm is involved in certain crime, I do not know whether it would be justifiable for the Reserve Bank of India to penalise all the other partners and ostracise them from all public functions and offices. Moreover, Sir, it is not within the power of the Reserve Bank to remove any Director offhand. If there would have been gross misma-

[Shri H. C. Guha.]
 nagement of a bank then the Reserve Bank might have some power to interfere but they cannot interfere in the formation of the Board unless there is anything definite about the mismanagement in the working of that bank itself

SHRI C. G. K. REDDY: What about certified brokers?

SHRI A C GUHA: It is admitted that this firm has been removed from the list of certified brokers of the Reserve Bank and that is a great punishment financially and also socially. If the question of social ostracism or social punishment is brought in, in this case I think it is a form of social punishment that has been given to this firm by the Reserve Bank which is also a part or a wing of the Government of India.

Then she raised the question of laying papers in connection with this case on the Table of the Council Sir, this is not the single case that came up for hearing as appeal or for review in the Central Board of Revenue or to the Finance Minister or some other officers of the Government. If the Parliament insists that in all such cases all the papers should be placed on the Table of the House, I do not think it would be fair either for this House or for the parties concerned. If this House decides and specifies what are the papers to be placed before the House, then the Government would be in a position to consider what action can be taken on such a request. On that day some hon. Member made a pointed reference to something and requested the Chairman that it was up to him to ask the Government to place certain papers. And if the Chairman makes any directive like that to the Government, I think you can rest assured that the Government will not disregard such direction from the Chair.

DR. SHRIMATI SEETA PARNAND: We would like to see the papers with regard to the evidence available about previous offences or otherwise.

SHRI A. C. GUHA: Now as regards previous transactions, Passardiére made three statements and wrote three letters which might also be taken as a sort of statement but in the four statements he did not mention about the four transactions with the firm. In some of his statements he mentioned this but the subsequent statements were conflicting. So it was the opinion of the legal authorities that the statement of a co-accused, who is practically on par with the King's witness or approver, cannot be taken for granted unless that statement is corroborated by some independent evidence. Then the hon. lady Member referred to conspiracy with foreigners, and she also mentioned something like an international conspiracy. Yes, some foreigners were involved in this case but the chief culprit in this case Count Lorial was in Switzerland and could not be touched. He came to India only once and that was before the fourth transaction was detected, and so we could not touch him. Then the second man was Garreton

DR. SHRIMATI SEETA PARNAND: Cannot diplomatic privileges be withdrawn from the Chilean Embassy?

SHRI A C GUHA: Does she suggest the withdrawal of diplomatic privileges of Chilean Embassy for the offence of a Chilean citizen? The Foreign Affairs Ministry may consider this suggestion. I am not in a position to reply to the suggestion. In the case of this man, Garreton, it was on the representation of the President of the Chilean Republic to our President that he was given pardon. I think it would not be fair for this House to enter into discussion affecting the decision taken by our President at the request of the President of another Republic.

Then the hon. the lady Member referred to some Press cutting I think by referring to that, she has rather undermined her own case. It is not that we have shown to that firm any leniency or that firm is feeling obliged to us. We have penalised that firm to the tune of nearabout 21 lakhs or something like that. In this connection

the total value of the gold seized has to be considered. The gold that was seized by us was of the value of only 6.10 lakhs. That was the quantity of gold seized with that firm and we are concerned only with that quantity and for that that firm was punished to the tune of about 21 lakhs. So I think the punishment has been quite heavy and not lenient. The fact that the partners of the firm have not felt obliged to the Government shows that Government has not shown any consideration or leniency to the firm. I think, Sir, the points made will have cleared up the position.

SHRI C. D. DESHMUKH: May I just make one point? All these applications come as revision applications to the Ministry of Finance. First, the Collector of Customs deals with them, then they come in appeal to the Central Board of Revenue, and then all these cases come up to the Ministry of Finance. They are dealt with by the Minister of Finance himself. Therefore I do not propose to follow the advice of the hon. lady Member that I should not deal with these cases, because I am to kind-hearted.

DR. SHRIMATI SEETA PARMANAND: May I explain Sir? The hon. Deputy Minister said in his statement that the hon. Finance Minister was appointed an Arbitrator. That is the explanation that was given and that is why on his version I commented that the Finance Minister should not function as an Arbitrator. I will take back that suggestion of mine.

SHRI C. D. DESHMUKH: She may take back the suggestion. But I would like to make this point clear. The position is

that soon after the cases against Messrs. Premchand Roychand & Sons, there was another appeal by their partners before the Collector of Central Excise, Bombay, in April 1951. The firm applied for a writ in the Bombay High Court praying that the orders passed may be quashed. The petitions were based mainly on the ground of jurisdiction and lack of application of the principles of natural justice. In the adjudication proceedings in the course of the hearing on the writ application before the High Court, the petitioners through their counsel offered to compromise on certain terms. As it was felt by Government—and we took legal advice—that the Defence case, that is to say, Government's case, especially on the question of jurisdiction might be weak, it was decided to accept the terms for compromise which, *inter alia*, provided that in the event of a revision application being filed by the petitioners, the hon. Finance Minister would either go through the records and/or hear the parties informally as he in his absolute discretion might choose, and the decision thereon would be accepted by the parties as final and binding and no further proceeding should be taken to question that decision. Now this was only to ensure that the revision application was not dealt with by any lower level, and it was dealt with at the highest level available in the Ministry.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 8-15 A.M. tomorrow.

The Council adjourned till a quarter past eight of the clock on Thursday, the 7th May 1953.