

## CANADA AT THE UNITED NATIONS

**KOREAN INDEPENDENCE:** By a vote of 43 to 0 with six abstentions (Soviet Bloc), the General Assembly, Nov. 14, adopted a First Committee resolution on the independence of Korea. The resolution calls for the setting up of a United Nations temporary Korean commission, details its composition and terms of reference and spells out plans for the granting of Korean independence (C.W.B. Oct. 31).

The General Assembly then rejected in a roll-call vote, 34 against, 7 in favour, 16 abstentions, a Soviet resolution calling for the simultaneous withdrawal of United States and Soviet troops from Korea by the beginning of 1948, leaving the Korean people to establish their own national government.

The voting of the Soviet resolution was:

For: Byelorussia, Czechoslovakia, Egypt, Poland, Ukraine, USSR, Yugoslavia.

Against: Argentina, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, France, Greece, Honduras, Iceland, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Pakistan, Panama, Paraguay, Peru, Philippine Republic, Turkey, Union of South Africa, United Kingdom, Uruguay, United States, Venezuela.

Abstentions: Afghanistan, Denmark, Ethiopia, Guatemala, Haiti, Iran, Iraq, Lebanon, Liberia, Mexico, Norway, Saudi Arabia, Siam, Sweden, Syria, Yemen.

The Assembly named Canada to the Nine-member commission, along with Australia, China, El Salvador, France, India, the Philippines, Syria and the Ukraine.

The Ukraine was named to the Commission, although she refuses to participate.

During the debate, Dniri Manuilsky (Ukraine) made the following reference to Canada: Let me go further now and take Canada. After the last session of the General Assembly, we were just boarding our ships when an anti-Soviet plot was hatched in Canada and unbridled agitation was used; this was shameful for Canada. At present, Canada has opened her doors wide for those criminals who fought on the side of the Germans against the United Nations. It is not our business to ply you with these examples...

**MR. ILSLEY REPLIES:** Speaking in Halifax, Nov. 15, the Minister of Justice, Mr. Ilesley, made the following reply to Mr. Manuilsky:

Every one in Canada knows that we did not plot against the Soviet Union. The appointment of the Royal Commission was, of course, not in any sense a plot, and it was not directed against the Soviet Union. It was instituted for the ascertainment of facts, which if they were as alleged would necessitate the cleansing of our own civil service.

Information came to us that official secrets were being revealed to representatives of the government of the Soviet Union in the Soviet Embassy. This had been going on for many

months, over a period when our admiration for Russians was great, and, as we thought our relations with Russia were of the friendliest nature.

We were discussing with them mutual aid, long-term credits, supplying them with wheat, and other matters, and we discovered that over this very period their officials were enticing some of our civil servants to violate their oaths of office, as well as the Official Secrets Act, and clandestinely to give them secret information. Persons closely and officially connected with the Communist Party of Canada were mixed up in the business.

It was not we who were the plotters. As to where the shameful lay, you can form your own opinion. The fact is that no other course was open to us except the one we took. Had we not taken it, we would have been recreant to our trust as servants of the Canadian people.

I wonder what happens to civil servants in the Ukraine who give secret information to foreign governments?

Mr. Ilesley also referred to Manuilsky's charge that Canada had opened its doors to "those criminals who fought on the German side in the war against the United Nations".

This, Mr. Ilesley declared, "is completely untrue. This is not the type of immigrant we are getting from the displaced persons camps at all and Mr. Manuilsky knows it".

**INTERNATIONAL COURT AND CHARTER:** The General Assembly, Nov. 14, adopted three resolutions respecting the International Court of Justice at the Hague. The first (strongly opposed by Russia) enables the Court to give judgments interpreting the UN Charter.

The other two allow the trusteeship council to ask the Court for legal decisions on questions facing it and also recommend that member states submit legal disputes to this world tribunal.

L.R. Beaudoin, M.P., for the Canadian delegation said: The opinion held by the delegations of Poland and the U.S.S.R. is, firstly, that the International Court of Justice has no jurisdiction to interpret the Charter and, secondly, that the resolution which recommends that organs of the United Nations should refer to the Court difficult and important points of law (including the interpretation of the Charter) is contrary to the Charter and therefore illegal.

As to the first point, has the Court jurisdiction to interpret the Charter? Article 92 of the Charter states that the Court, being the principal judicial organ of the United Nations, shall function in accordance with its statute which is made an integral part of the Charter. Article 96 of the Charter authorizes the Assembly or the Security Council to request advisory opinions of the Court on any legal question and that other organs or specialized agencies may be authorized by the Assembly to

request advisory opinions on legal matters arising within the scope of their activities.

Article 34, Paragraph 3 of the statute of the Court (which forms an integral part of the Charter) declares that "whenever the construction of the constituent instrument of a public international organization... is in question in a case before the Court"... the registrar shall take certain steps. Clearly, then, the Court has jurisdiction to interpret the Charter in cases submitted by states to the Court.

But can the Court give an interpretation of the Charter in an advisory opinion requested of it? Article 65 of the statute says quite clearly that "the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request".

It may not be without use to underline that Article 65 provides "The Court may give an advisory opinion on any legal question..."

The construction of the constituent instrument of a public international organization, specifically mentioned in Article 34 of the statute, is certainly a subject for the legal determination of the Court. It follows then that the Court has jurisdiction to interpret the Charter (which is the constituent instrument of the United Nations itself) either in a case brought to it by two states or when an organ of the United Nations has requested an advisory opinion on an interpretation of the Charter.

Now it has been inferred that a proposal, such as is before the Assembly, was rejected at San Francisco. I have looked through the records of the San Francisco conference and, for my part, have been unable to find that such a proposal was rejected by that conference on international organization.

The question asked at San Francisco was:

"How and by what organ or organs of the organization should the Charter be interpreted?"

You have before you document A/474, submitted by the Soviet delegation, which contains the transcript of what was said in answer to that question. This document sets forth the conclusions adopted by Committee IV at San Francisco. These conclusions prepared by the Committee responsible for framing this part of the Charter show that it is abundantly clear that the organs of the United Nations may, in the course of day to day operations, interpret such parts of the Charter as are applicable to their particular functions. It is also clear that the Charter contains nothing which prevents the Court from interpreting the Charter. Finally, it is equally clear that states may put a case before the Court, or organs may request an advisory opinion of the Court, concerning the interpretation of the Charter.

Since the Assembly, by virtue of Article 13 of the Charter, may make recommendations for the purpose of promoting the development of international law, there can be no possible

illegality in the Assembly recommending to the organs of the United Nations and to the duly authorized agencies that they should place difficult and important questions of law (including the interpretation of their constituent instruments) before the International Court of Justice for an advisory opinion.

We feel strongly, Mr. President, that not only is the resolution proposed by Committee 6 quite within the letter and spirit of the Charter but it is also designed to develop the rule of law and order based on justice. This rule, the Canadian delegation supports wholeheartedly.

**"LITTLE ASSEMBLY" APPROVED:** On a vote of 41 to 6, with 6 abstentions, the General Assembly, Nov. 13, decided to establish an interim committee of the General Assembly (C.W.B. Oct. 24, 1947). The Interim Committee is to assist the General Assembly as a subsidiary during the period between the closing of the present session and the opening of the next regular session of the General Assembly. Delegates from the Soviet bloc, who opposed the resolution, said they would not participate in the committee's proceedings.

**INDIANS IN S. AFRICA:** In the Assembly First Committee, Nov. 17, the Minister of Justice, Mr. Ilesley, made the following statement on the treatment of Indians in South Africa: While our delegation has refrained from giving advice to either country whose dispute is now under consideration, this is not because our delegation is lacking in views on how the dispute might be settled. Our principal concern is that these two countries, with which Canada has special ties of association and friendship, should break the deadlock in their dispute and enter, as soon as possible, into direct discussions with a view to arriving at a friendly settlement on all the questions at issue between them.

If the decision of the Assembly is to have this constructive effect, the resolution which embodies it should be composed in such terms as not to imply judgment against one party or the other, especially since the facts and the law in the dispute have not yet been established by an impartial international tribunal.

As we believe that the draft resolution submitted by the Indian delegation is capable of this interpretation and is therefore not likely to serve to break the present deadlock, the Canadian delegation regrets that it cannot support it at least in its present form.

A number of helpful suggestions have been made in this Committee. The Canadian delegation favours the approach suggested both in the joint draft resolution, submitted by the delegations of Belgium, Brazil and Denmark, and in the amendment offered by the delegation of Norway. Both proposals contained a request that both parties enter into direct negotiations to reach an agreement. In addition they also provide that, in the event of failure to