

delay, that it emphasized the legal element at the expense of the far more important political element in the case, and, finally, that it would impair the prestige of the International Court of Justice if it found itself divided in its opinion.

The supporters of reference to the Court rested on the fact that there were grave and serious doubts as to the competence of the General Assembly in the matter and that before the United Nations should proceed these doubts must be resolved. This position was strongly argued by the representatives of the United Kingdom and of the United States.

The representative of New Zealand (Mr J. V. Wilson), in supporting reference to the Court, said that he would not express an opinion on the merits or take part in a vote which passed judgment on the merits. This attitude was not due to any indifference to the grave issues raised. New Zealand, a country with two races but singularly free from racial discrimination, attached the utmost importance to the effective fulfilment of the Charter obligations in regard to human rights and fundamental freedoms.

He suggested that, even if the question in debate had not involved contested legal points, it would have been proper for the Committee to show due deliberation before coming to a judgment on a matter so deeply affecting the interests of two members of the United Nations.

However, an important legal issue had arisen—namely, whether the United Nations possesses jurisdiction. Clearly this point must be decided before any substantive resolution was adopted. Some members of the Committee were prepared to affirm forthwith that the matter was *not* one of domestic jurisdiction. South Africa was prepared to affirm that it *was*. The New Zealand delegation thought the point sufficiently disputable to justify the proposed reference to the Court. Such a procedure was the least likely to prejudice the position of any member of the United Nations and the best calculated to ensure that any resolutions which the Assembly might ultimately be entitled to take would be solidly based.

A certain delay would admittedly result from this procedure, but the United Nations would not be washing its hands of the matter; on the contrary, the Court, which would be dealing with it, was one of the principal organs of the United Nations. After the Court had given its opinion the matter would return to the General Assembly, which would then be fully instructed as to the nature of its competence.

The representative of the United States emphasized that even though the General Assembly were to invite the Court to submit an advisory opinion the Assembly itself still remained the sole judge as to what action should be taken in the light of that opinion.

The matter finally came to a vote in Committee on the basis of two resolutions, one resolution presented by France and Mexico, in favour of which the Indian delegation withdrew a more strongly condemnatory resolution which it had put forward at an earlier stage. The second