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REG. No. C193

CALCUTTA SATURDAY NOVEMBER 25 1961

16 Paisa Pakistan  
25 Pysa Burma (inc: Air-Surecharge)

16 Naye Paise

## NANAVATI APPEAL DISMISSED

**SIR B.P. SINGH  
ROY DEAD**



By a Staff Reporter  
Sir Bijoy Prasad Singh Roy, industrialist and former Minister of undivided Bengal, died at his Calcutta residence on Friday at 4-45 p.m. He was 67.  
Sir Bijoy had a heart attack last Sunday. On Friday, he answered telephone calls in the morning and told friends he was feeling much better. At about 4-30 p.m. he had a fresh heart attack. He called members of his family to his bedside and the end came 10 minutes later.  
As the news of his death spread, a large number of his admirers, friends and relatives, including Sir A. Ramaswami Mudaliar, visited his house. His body was taken to Keoratala burning ghat late at night and cremated.  
The offices of India Steamship, of which Sir Bijoy was a director, will be closed today.  
(Obituary on Page 6)

## STALIN GLORIFIED IN CHINA

PEKING, Nov. 24.—Chinese Communist Party officials and intellectuals have been instructed to study the works of Stalin and post his picture prominently in local meeting halls, usually reliable sources said here today, reports Reuters.  
Peking art shops have brought out big portraits of the former Soviet leader, and are displaying them alongside those of Mary Lenin and Mao Tse-tung. President Liu Shao-chi, and other Chinese leaders.  
Chinese officials were the only guests at a reception given here last night by the Albanian Ambassador to mark the anniversary of the establishment of relations between the two countries.

## NORTH EUROPE NOT AREA OF PEACE NOW

—KHRUSHCHEV

MOSCOW, Nov. 24.—Mr Khrushchev said today that in the present situation the Soviet Union cannot consider the north of Europe as an area of peace and calmness, which it had been until now, Tass reported, says Reuters.  
Mr Khrushchev was speaking in Moscow at a luncheon given in honour of President Kekkonen of Finland.  
Mr Khrushchev said that that was the reason why a Note had been sent to the Finnish Government proposing joint measures to strengthen the frontiers of Finland and of the Soviet Union.  
Mr Khrushchev said that the USSR considered it a most important duty to take all necessary measures to tie the hands of "the West German militarists and revenge-seekers, who were impudently demanding a revision of the State frontiers established after World War II, and thus to strengthen peace and the security of all peoples of Europe."  
In Helsinki yesterday the Speaker of the Finnish Parliament called for a postponement of Finland's coming Presidential elections and a possible six-year extension of Dr Kekkonen's mandate in view of the country's present "delicate situation," adds AFP.  
(See also Page 7)

## U.S. AIR FORCE PLANE CRASHES: 5 DIE

EDMONTON (Alberta), Nov. 24.—The bodies of five men were found in the wreckage of a USAF C-119 aircraft, which crashed at the foot of a 5,000-ft mountain on the Alaska Highway near Edmonton last night, reports Reuters.  
Three of the 10 members of the crew parachuted to safety and two others are missing, a Royal Canadian Air Force spokesman said. The plane was flying from Whitehorse, Yukon Territory, to Tacoma, Washington.

## CALCUTTA WEATHER

Forecast for today: Fair weather. Slight fall in night temperature. The maximum temperature recorded was 27°C (81°F) 1°C below normal. The minimum temperature was 16°C (61°F) 1°C below normal. The maximum humidity was 93% and the minimum 36%. The maximum wind speed was 15 km/h (9 mph). Relative humidity at 8-30 a.m. 70% (7% below normal) and at 3-30 p.m. 47% (16% below normal).  
Rainfall: Nil.  
Sun sets today at 4:51 p.m.; rises tomorrow at 5:36 a.m.  
Moon sets today at 8:19 a.m.; rises at 7:34 p.m.  
Last quarter of the moon on November 30.  
Hooghly River tides at Garden Reach:  
Nov. 25 Low water 11-30 a.m. 4.0 ft.  
Nov. 25 High water 3-12 p.m. 13.4 ft.  
Nov. 26 Low water 11-30 p.m. 3.8 ft.  
Nov. 26 High water 3-12 a.m. 16.3 ft.

## Sudden Provocation Theory Rejected By Supreme Court LIFE SENTENCE CONFIRMED

From Our Legal Correspondent

NEW DELHI, Nov. 24.—The appeal by K. M. Nanavati from the judgment of Bombay High Court convicting him for the murder of Prem Ahuja and sentencing him to imprisonment for life, was dismissed by the Supreme Court by a judgment delivered on Friday by Mr Justice Subba Rao.

ANNOUNCING the 116-page judgment to a packed court, the Supreme Court rejected the twin theories of death having been caused by accidental firing or as the result of grave and sudden provocation.

Confirming the life sentence passed by Bombay High Court on Nanavati it held "that the prosecution had proved beyond any reasonable doubt that the accused intentionally shot the deceased and 'killed him.' The court further stated that the facts did not bring the case within the exception so as to convert the killing into culpable homicide not amounting to murder.

The facts leading to the appeal were that the appellant was charged with murder as well as culpable homicide not amounting to murder and was tried by the Sessions Judge, Greater Bombay, with the aid of a special jury.

The case of the prosecution was that at the time of the alleged murder the accused was in command of the Indian Naval ship Mysore. He had married Sylvia at Portsmouth, England, in 1956. The Nanavatis were introduced on a party to a friend, a business man. Gradually a friendship which developed into illicit intimacy grew between Sylvia and Prem Ahuja. On April 27, 1959, Sylvia confessed to her illicit intimacy with Ahuja. Enraged at the conduct of Ahuja, Nanavati went to his ship, took a revolver and six cartridges on a pretext and then went to Ahuja's flat. There he shot Ahuja and then surrendered to the police who put him under arrest and sent him up for trial.

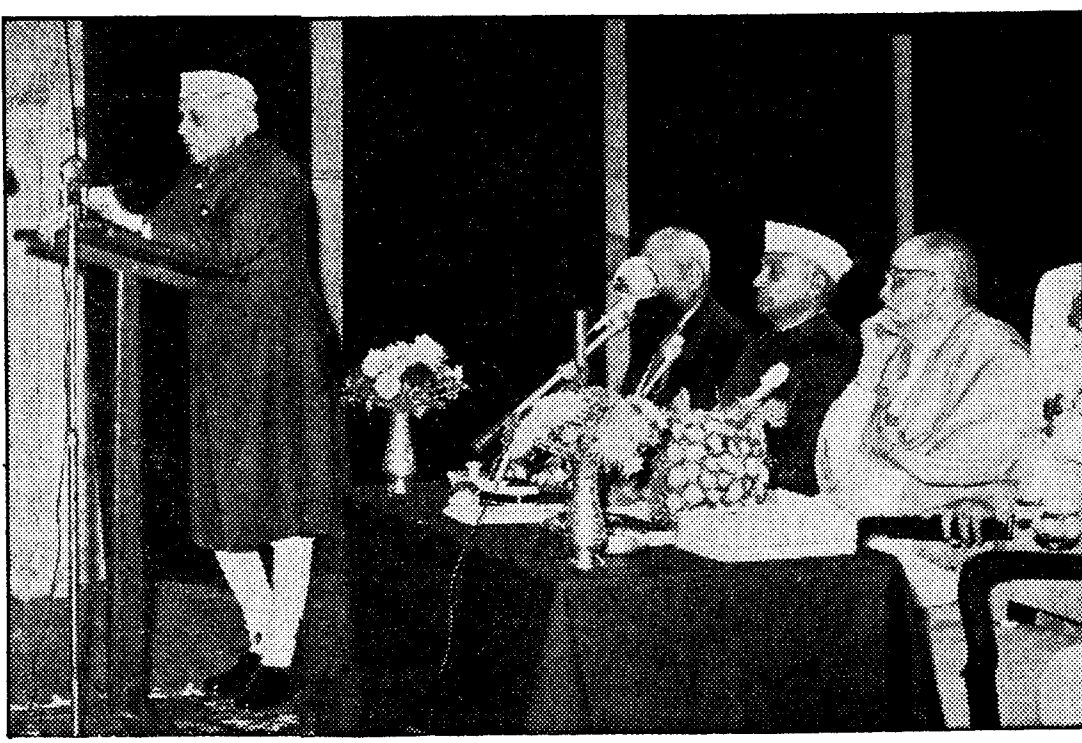
The defence insisted that the accused was unaware of the intimacy until April 27, 1959. On that day when he questioned his wife she shook her head to indicate that she was unfaithful to him. He guessed that her paramour was Ahuja. As she did not indicate whether Ahuja would marry her and look after the children, he decided to settle the matter with him. He went to Ahuja's flat with the revolver and asked him whether he would marry Sylvia. Ahuja is said to have answered "Am I to marry every woman I sleep with?" A struggle followed between the two and during that struggle the shots went off accidentally and Ahuja, resulting in his death. In the trial, the Sessions Judge returned a verdict of not guilty, but the Sessions Judge referred the case to the High Court as he did not agree with the verdict. The High Court held that the Sessions Judge had not directed the jury in accordance with law and in view of these misdirections the conclusion of the jury could not be sustained. The High Court then examined the evidence for itself and held that Nanavati was guilty of murder.

DEFENCE PLEA  
In the defence counsel for the appellant submitted: (1) under Section 307 of the CrPC the High Court should decide whether a reference made by a Sessions Judge was competent only on a perusal of the order of reference made to it and it had no jurisdiction to consider the evidence and come to a conclusion whether the reference was competent or not; (2) under the section the High Court had no power to set aside the verdict of a jury on the ground that there were misdirections in the charge made by the Sessions Judge; (3) that there were no misdirections in the charge to the jury; (4) that the verdict of the jury was not perverse; (5) that in any view the accused shot at the deceased under grave and sudden provocation and therefore the offence was not murder.

On the above submissions the Supreme Court construed the relevant provisions governing the power of the High Court in appeal, revision and reference. The court summarized the principles regarding the powers of the High Court under Section 307 as follows:—(1) a reference is competent only if the Sessions Judge disagrees with the verdict of the jury and is of the opinion that the verdict is perverse; (2) a High Court can reject a reference if these conditions are not to be found in the reference, but if the reference is proper the High Court must entertain it.

Once the reference is entertained by the High Court, it has to consider the entire evidence and after giving due weight to the opinion of the Sessions Judge and the jury, acquit or convict the accused. The High Court in dealing with the case may disregard the verdict of the jury and come to its own conclusions on the evidence and is of the opinion that there are misdirections vitiating the verdict or if the verdict is unreasonable and such that no body of reasonable men could have reached it.

On this construction the Supreme Court rejected the first contention of the counsel for the appellant. The Supreme Court further agreed with the High Court that there were grave misdirections to the jury by the Sessions Judge, and this justified the High Court's decision.



Mr Nehru inaugurating the Conference on Medical Education at Sapru House, New Delhi, on Thursday.—Statesman.

## INCURSIONS BY CHINA CRITICIZED

From Our Delhi Office

NOV. 24.—Dr O. Frederick Nolde, Director of the Commission of the Churches on International Affairs (CCIA), said today that in his opinion the Chinese incursions into Indian territory and the continuing Portuguese occupation of Goa constituted a threat to world peace and justice.

Addressing a Press conference Dr Nolde made it clear, however, that this was his personal opinion and not necessarily that of the CCIA or the World Council of Churches. The CCIA, which is a division of the WCC, he explained, could take up the study of these questions and express an opinion on them only if a member church referred the issues to them. So far, this had not been done, though he did not preclude the possibility of such studies being made in the future.

He also made it clear that the CCIA did not believe in being aligned on the merits of any particular issue, though it was independent of any military alliances and other pressure groups. He said the CCIA had only listened to the principle of self-determination and to support the grant of early freedom to dependent countries. On the Angola issue, for instance, the commission had called for a complete withdrawal of the Angolans.

Dr K. G. Grubb, Chairman of the CCIA, revealed that the assembly of the WCC might be asked to make a statement on the Angola question and it was possible that the statement would be a complete withdrawal of all world-wide aspects of the issue, including the reasons for the outbursts there, the actual events and imprisonment of Angolans.

Dr Grubb said that while the delegates of the Russian Orthodox Church had only listened to the committee discussions on international affairs, they had showed particular interest in the discussions in the sub-section dealing with questions of world order and disorder and East-West relations. They had also intervened to make clear the position of the Church in Russia.

(See also Page 7)

## PLANS FOR MEETING OF PRINCES UPSET No Agreement On Security Arrangements

From SURENDRA NIHAL SINGH

VIENTIANE, Nov. 24.—The mood of optimism prevailing in this straggling capital of Laos was somewhat dispelled today by the failure of the representatives of the three princes to arrive at an agreement on ensuring security for their proposed meeting.

Prince Boum Oum's representatives lined down all the three suggestions made by the Souvanna Phouma and the Pathet Lao teams and offered instead one platform each, accompanied by the Plain des Jarres or a nearby village or Hin Heup for a meeting of the princes.

Even with the present development the situation in Laos today represents a change for the better. This change stems from a general realization here that the time has come for a settlement. This feeling, however, is not shared by all the members of the Souvanna delegation who have led up to the present.

Shortly before midday today, the 13-man delegation representing the Souvanna Phouma and the Pathet Lao representatives, who have returned to Xieng Khouang, replied by suggesting the Plain des Jarres or a nearby village or Hin Heup for a meeting of the princes.

The House next debated inconclusively, another non-official resolution, by an Independent member, Mr S. N. Banerjee, which says that the Government of India "should give a final ultimatum to the Portuguese to withdraw from Goa, Daman and Diu." In an amendment, Mr A. B. Vaidya moved that the Government should next year set as the deadline for the withdrawal.

## Debate On Chinese Aggression Deferred Bhattacharjee's Release Through U.N. Urged

From Our Parliamentary Correspondent

NEW DELHI, Nov. 24.—Answering questions on the recent arrest and heavy sentence passed on Col. Bhattacharjee by a military tribunal in Pakistan, Mr Nehru said in the Lok Sabha today that he could not confirm whether Col. Bhattacharjee would be released by the Pakistani Government.

## FREEDOM BY FEBRUARY NOT POSSIBLE

## Maudling's Visit To Kenya Begins

NAIROBI, Nov. 24.—The British Colonial Secretary, Mr. Reginald Maudling, said here today that it would not be possible for Kenya to have her independence by February next, reports PTI.

Mr Maudling, who arrived here by air from London today on a five-day visit to Kenya, refused to indicate at an airport Press conference, the date of Kenya's independence or outline the time-table leading to it.

The Colonial Secretary said: "We are aiming at an early constitutional conference in the first three months of the next year. But once you settle on the constitution it takes quite a long time to work out the details."

Mr Maudling said that he had no intention of imposing a coalition Government on Kenya. "These things must be decided by negotiations, not by imposition." He expressed the hope that if the proposed constitutional conference proved successful, the atmosphere would be better for the formation of a coalition Government.

Mr Maudling termed the allegations that the Governor, Sir Patrick Renison, was favouring and backing the KADU as entirely false. "He has my full confidence," he added.

A Congress member, Mr Khadihar, drew his attention to certain Press reports that Col Bhattacharjee might be released or his sentence reduced. Mr Nehru replied that he was unable to say anything about these reports.

He decided a suggestion by a PSP member, Mr Hem Barua, that the good offices of the U.N. might be sought to secure the Indian Army Officer's release.

He agreed that the sentence was heavy. Although no protest was made to Pakistan, the Indian High Commissioner was constantly in touch with the Pakistani Government to secure facilities.

He could not confirm that the defence lawyer, engaged by Col Bhattacharjee's family had complained about lack of facilities, though he said he might have since some letters had been received from him.

Mr Nehru disclosed that the military tribunal did not accept the espionage charge against Col Bhattacharjee, who was in fact sentenced only for some technical offence of entering Pakistan without a permit and being in possession of arms.

SINO-NEPALESE TREATY  
It was officially stated this morning that the recent border treaty between China and Nepal had fully vindicated India's stand on the boundary issue.

In reply to questions the Deputy Minister of External Affairs, Mrs Lakshmi Menon, said that the Sino-Nepalese treaty not only accepted but affirmed the principle of tradition, known geographical features and watersheds as the basis for determining international boundaries.

Members pointed out that these were the very principles which India had pressed as the basis of its demand for a similar settlement with Nepal. China would now be asked to make a similar settlement with India.

Mr Nehru, who intervened, said that no approach had been made so far. He said that since the treaty with Nepal but these principles were urged several times earlier and would be urged again when an occasion arose.

The House today decided to postpone from Tuesday to December 4 the debate promised earlier this week on the latest Chinese incursions across the northern frontier.

In the meantime the Government will place before Parliament a more detailed statement on the extracts from India's protest. Notes which were released last Monday. The latest correspondence between the Governments of India and China will also be released.

MOVE FOR ADJOURNMENT  
The Speaker ruled out a motion for adjournment tabled this morning by Mr K. T. K. Thangamani on an incident on November 17 in which a stray bullet from the Portuguese island of Anjiv hit an Indian steamer while it was passing the island, half a mile south of Karwar, on its way from Bombay to Cochin.

The Speaker said that if necessary he would allow a discussion after a more detailed statement on the incident. The Government is expected to make.

Speaking on information so far available the Prime Minister said that the steamer, s.s. Sabarmati, was passing the island when a bullet from a rifle fired from the island hit the ship and caused minor injuries to the ship's doctor. The island is held by some Portuguese forces.

Asked whether a protest had been made to the Portuguese Government, Mr Nehru replied that a more detailed report was awaited. He described the incident as an important international matter, though he declined the suggestion by an Opposition member that convoys should be provided for Indian ships on this route.

(Other Lok Sabha questions on Page 9).

## VISA REFUSED

LONDON, Nov. 24.—The Soviet Union has refused a Soviet visa to a British worker who organized a strike last month in a Berkshire plant making equipment for a tyre factory in the Ukraine, it is learnt.—AFP.

## Changes Likely In Constitution Election Of President And Vice-President

From Our Special Representative

NEW DELHI, Nov. 24.—Before the current session of Parliament adjourns, probably ahead of schedule, it is likely to enact yet another amendment to the Constitution.

It is learnt that the Government has decided that at least two procedural changes in the articles of the Constitution which govern the election of the President and the Vice-President are necessary.

One intends to make it clear that the electoral college for the election of the President—members of both Houses of Parliament and of all State Legislatures—will be deemed to be properly constituted even if a few snow-bound constituencies in the Himalayas cannot go to the polls along with the rest of the country.

The reason why the Government has been compelled to take this decision is that in 1957 the fact that a few Himalayan constituencies had not returned their M.P.s and MLAs was made a ground for challenging Dr Rajendra Prasad's election as President of India.

Although the judgment of the Supreme Court at that time ruling out the objection is binding for the future, the Government is keen that the President's election should not be made an occasion for undue and unnecessary litigation.

The second change the Government wants to make in the Constitution is in relation to the election of the Vice-President. Under Article 66, the Vice-President is to be elected by members of both Houses of Parliament "assembled at a joint meeting".

On both the previous occasions, Dr Radhakrishnan was the only nominee for the office of Vice-President and therefore he was declared elected unopposed.

The Government has now been advised by its Constitutional advisers that the Constitution should make it explicit that in the event of an unopposed election of the Vice-President, the two Houses of Parliament need not meet.

Otherwise, the Government's legal advisers feel, the matter may be dragged to the law courts by legal quibblers of whom there is no dearth in this country.

FIRE IN BUSTEE  
Five pumps of the West Bengal Services brought a blaze in a bustee house in the Goabaga area of Calcutta under control early on Friday morning. A man received burns and was taken to hospital.

From the same area, a married woman (26) was taken in the evening to hospital. She had severe burns and died soon after admission.

DE-NUCLEARIZED  
ZONE FOR  
AFRICA SUGGESTED

U.N. H.Q., Nov. 24.—The General Assembly today called upon all member States "to consider and respect the Continent of Africa as a de-nuclearized zone," says Reuters.  
(See also Page 7)



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