

have declined to undertake census of land holdings as suggested by the Ministry of Food & Agriculture, if so. why; and

(h) what steps Government propose to take to bring the Government of Travancore-Cochin to conform to their suggestion?

THE MINISTER FOR AGRICULTURE (DR. P. S. DESHMUKH): (a) The State Government pointed out that the question of land reforms had been examined by the Travancore-Cochin Land Policy Committee and that its recommendations were under the consideration of Government. In the circumstances the holding of a census of land holdings and¹ cultivation was not very essential.

(b) The Government of India have suggested that the census should be held in order that comparable figures on an all India basis may be available.

SHRI ABDUL RAZAK: May I know which committee has been appointed by the Government of Travancore-Cochin to go into the question of land¹ reforms?

DR. P. S. DESHMUKH: That Government has made a reference to the Travancore-Cochin Land Policy Committee.

SHRI ABDUL RAZAK: When was it appointed?

DR. P. S. DESHMUKH: I am afraid I have not got the details.

SHRI ABDUL RAZAK: Does that committee refer to Acchuta Menon's Committee which submitted its report early in 1952?

DR. P. S. DESHMUKH: Sir, we have not gone so deeply into the constitution, the date and the personnel of this committee. We addressed them to hold a land census. In reply they said that they have this committee

and therefore it would not be necessary. We are trying to press them to agree to our view and to hold the census because we want to have comparable figures on an all India basis.

SHRI ABDUL RAZAK: The answer to part (b) is not clear. May I know the actual steps that are proposed to be taken or that have been taken?

DR. P. S. DESHMUKH: I do not know what steps we can take, Sir., except to request the Travancore-Cochin Government to fall in line with the letter which we have addressed to all the State Governments.

SHRI K. SURYANARAYANA: May I know, Sir, whether any other State Government have declined to follow the line taken by this Government?

DR. P. S. DESHMUKH: No, Sir.

EXCLUSION OF INDIA FROM THE MEMBERSHIP OF THE INTERNATIONAL MILITARY TRIBUNAL OF THE FAR EAST

SHRI GOVINDA REDDY: Will the PRIME MINISTER be pleased to state;

(a) whether it is a fact that India is sought to be excluded from the membership of the International Military Tribunal of the Far East;

(b) if so, what are the reasons for the proposed exclusion of India from the said Tribunal; and

(c) how the matter stands now?

THE PRIME MINISTER AND MINISTER FOR EXTERNAL AFFAIRS AND DEFENCE (SHRI JAWAHARLAL NEHRU): (a), (b) and (c). The International Military Tribunal for the Far East was set up by a Proclamation issued in January 1946 by the Supreme Commander for the Allied Powers in the Pacific for the trial of Japanese war criminals. The Governments of the following eleven countries were members of the Tribunal:

- (1) Australia.
- (2) Canada.

- (3) China.
- (4) France.
- <5) India.
- (6) The Netherlands.
- (7) New Zealand.
- (8) Philippines.
- (9) The United Kingdom.
- (10) The U. S. A.
- (11) The U. S. S. R.

The trial began in June 1946 and judgment was delivered in November 1948. India's representative on the Tribunal was Dr. R. B. Pal, who delivered a learned dissenting judgment.

In November 1952, the Japanese Government approached India, along with the other Governments represented on the Tribunal, with a request for clemency to twelve Japanese war criminals who were undergoing imprisonment for life. The Government of India supported this request.

In March 1953, the Japanese Government informed our Embassy at Tokyo that they had been advised by the U.S.A. that only those Governments had jurisdiction in this matter which had signed and ratified the San Francisco Peace Treaty, which was signed in September 1951 and took effect from April 1952. According to this interpretation, China, India and the U.S.S.R., which did not sign the San Francisco Treaty, and the Philippines, which did not ratify it, had no jurisdiction in the matter of clemency. On the other hand, Pakistan which had signed and ratified the San Francisco Treaty, was held to have jurisdiction, even though she was not represented on the Tribunal.

Article 11 of the San Francisco Treaty provides that the powers of clemency, etc., will be exercised by a majority of the Governments represented on the tribunal and on the recommendation of Japan. Article 25 states that no rights or benefits under the Treaty shall be conferred on any State which has not signed and ratified it.

The view of the Government of India has been that Article 25 of the San Francisco Treaty, negotiated and signed by third parties, cannot take away any right belonging to India as a member of the Tribunal. Further, the Tribunal's judgment was delivered long after the partition of India, and Dr. Pal was obviously acting only for the Government of India and not for the Government of Pakistan. Moreover, by the agreement annexed to the Indian Independence (International Arrangements) Order, 1947, membership of international organisations devolved, solely on India.

Notes containing our views were delivered to all the Governments represented on the Tribunal and to the Japanese Government in April and May 1953. We received replies between July and December 1953. The Governments of Australia, Canada, France, Netherlands, New Zealand, the U.K. and the U.S.A., reaffirmed * their stand that India had no jurisdiction in the matter of clemency since she was not a party to the San Francisco Treaty. They said further that there was no question of India's vote being transferred to Pakistan. According to them, Pakistan had equal jurisdiction in this matter as one of the successor States to British India and if India had been a party to the San Francisco Treaty, both she and Pakistan would have had equal jurisdiction in the matter of clemency.

In a further series of notes handed in April 1954 to the seven Governments named above, the Government of India have reaffirmed their stand. A Press Note was issued by the Government of India on the 10th May. A copy of this Note was placed on the Table of the House yesterday. This Note states briefly India's case in this matter.

The Government of India are wholly unable to accept the view of the Governments named above and consider it a negation of the principles of international law and practice. In their opinion, the exclusion of India whose representative had all along functioned as a member of the Tribunal even after

the partition of India, is completely arbitrary and has no justification whatever. Equally arbitrary is the inclusion of Pakistan. The fact that India did not sign the San Francisco treaty and Pakistan signed that treaty, has no relevance to this question. A treaty signed by some of the countries, and not signed by India, cannot bind India in any way and cannot affect India's rights.

As already stated, it was clearly laid down at the time of the partition of India that all international commitments and membership of international organisations previous to the partition devolve solely on India. The interpretation, therefore, put by the other countries has no justification whatever and the Government of India take a grave view of this arbitrary use of authority regardless of the principles of international law and practice and the circumstances governing this particular case.

SHRI JAWAHARLAL NEHRU: Sir, only yesterday a Press Note on this subject was laid on the Table of this House and yesterday also I replied at some length in the other House to a similar question. I do not wish to take up the time of the House by reading this fairly long* answer which is on the Table of the House, and if you will permit this, Sir, I shall briefly state some facts of the problem.

MR. CHAIRMAN: You need not read out the whole answer. You may summarize it.

SHRI JAWAHARLAL NEHRU: The fact is that a tribunal was appointed for the trial of Japanese war criminals, as they were called, with a number of countries represented on it. India was represented on it by Dr. Pal. This was in 1946. In 1948 judgment was delivered and Dr. Pal delivered a dissenting judgment, which of course has nothing to do with this matter now. Dr. Pal went there as the representative of undivided India, and continued after the

* *Vide* columns 6416—6419 *supra*.

partition also as a representative of India. Then, at a later stage, came the San Francisco Treaty between Japan and the United States of America and some other countries. India did not sign that. In that treaty some references are made to the rights of the countries signing that treaty. At a later stage the Japanese Government referred to us, as to other Governments, the question of clemency in regard to, I think, twelve war prisoners. We were of opinion that clemency should be exercised in regard to those people. However, we were informed later by the Japanese Government that they had been informed by other Governments that India had no further say in the matter because India had not signed the San Francisco Treaty, and Pakistan had a say in the matter. Now, Pakistan was not in the original list of countries. There were a number of countries, Australia, Canada, China, France, India, the Netherlands, New Zealand, the Philippines, the United Kingdom, the U.S.A. and the U.S.S.R. These were the original countries concerned with that trial. Now, it seems to us very extraordinary that because of some extraneous circumstances like the signing of the San Francisco Treaty by some countries—we were not concerned with that—the result of that should be that we should cease to have the position we had in regard to this matter of the Japanese prisoners. We had nothing to do with the San Francisco Treaty. And still more strange is it that Pakistan has appeared on the scene because she has signed that treaty—a complete travesty of international law and practice. We pointed that out to the Governments concerned. They replied at length. We again sent a long note of protest and repudiated the position they had taken up. There the matter rests now. We have refused to accept their viewpoint; but anyhow, meanwhile, our voice does not count in regard to this clemency matter.

SHRI GOVINDA REDDY: May I know, Sir, who is the authority to disqualify any member on this tribunal?

SHRI JAWAHARLAL NEHRU : It is rather difficult to answer that. Originally the appointing authority was the Supreme Commander of the Allied Forces in Japan. The Supreme Commander ceased to function. Therefore the authority presumably vested in the countries constituting that military tribunal. Now, all the other countries except India have decided that India has no right to express an opinion with regard to clemency. What I mean is that the majority of them have exercised their right. I do not know what other international rights they have.

SHRI GOVINDA REDDY: Have the U.S.S.R., China and other countries also agreed to the idea of disqualifying India?

SHRI JAWAHARLAL NEHRU: I don't think they have agreed to that. I have no recollection of their expressing any opinion on that subject.

SHRI GOVINDA REDDY: Is it not a fact that India continued to exercise its functions on this tribunal for fifteen months after the partition, and was any objection taken then, after partition, to India remaining on the tribunal⁹

SHRI JAWAHARLAL NEHRU: The question did not arise. I do not know about the period, but obviously India continued to function. In fact Dr. Pal continued to function for nearly a year after partition and this question of disqualification was not raised.

SHRI K. S. HEGDE: Has the U.S.S.R. ratified the San Francisco Treaty?

SHRI JAWAHARLAL NEHRU: No, Sir. I might mention that, so far as the question of clemency is concerned. U.S.S.R. is against the view of India. They do not want clemency; we want that clemency.

SHRI K. S. HEGDE: My point was: Even if the U.S.S.R. did not sign the treaty, they still continue to have a representative on the tribunal.

SHRI JAWAHARLAL NEHRU: There is no tribunal sitting; it is over. It is

a question of some subjects being referred to them. It was the Japanese Government that referred that question to us originally, and the Japanese Government were told by other Governments, the United States Government and some others that India's opinion was no longer going to count.

SHRI K. S. HEGDE: How can there be a distinction between U.S.S.R. and India? They are identical on this subject.

SHRI JAWAHARLAL NEHRU: I do not know: the question probably does not arise because in this matter of clemency there was no difference of opinion between the U.S.A. and the U.S.S.R. Both were against it.

SHRI P. SUNDARAYYA: Is the United Kingdom also a party to disqualifying India from being a member of the Tribunal now?

SHRI JAWAHARLAL NEHRU: There is no Tribunal in existence but there are certain consequences of the last tribunal—certain references. Yes, it is true that all the countries—I am not quite sure about all, but most of the countries, nearly all, because we have been addressing all of them—agree with the viewpoint that India's opinion should not count in this matter.

SHRI P. SUNDARAYYA: Is the Government of the United Kingdom also one of the countries that agree with that idea?

SHRI JAWAHARLAL NEHRU: Yes, yes.

SHRI P. SUNDARAYYA: How is it justified?

SHRI JAWAHARLAL NEHRU: I do not think it is justified.

MR. CHAIRMAN: Then the next question is, 'will you consider.....' (*Laughter*).

SHRI P. SUNDARAYYA: Did they consult us as member of the British Commonwealth before they took that

decision and ask for our views in such a case?

SHRI JAWAHARLAL NEHRU: As a matter of fact, this fact came to our notice rather accidentally, that is to say, the Japanese Government had asked us for our opinion. The Japanese Government wanted clemency for their men and we replied to them favouring clemency. Then the Japanese Government some months afterwards told us that they had been told that Indian opinion does not count because we have not signed the San Francisco treaty. It was thus indirectly that we came to know of this. Then we addressed the other Governments concerned and we got their reply. We have addressed them again and I see from this morning's papers that they propose to reply again.

SHRI H. C. DASAPPA: May I know what has happened to the criminals?

SHRI JAWAHARLAL NEHRU: I suppose they are in detention or in prison.

SHRI H. P. SAKSENA: What has eventually happened to those war criminals?

MR. CHAIRMAN: He has just answered it.

SHRI B. K. P. SINHA: Have the Government any information that U.S.S.R. and China are going to have any say in this matter of clemency?

SHRI JAWAHARLAL NEHRU: None. But my information is that U.S.S.R. in this matter of clemency, though not in others, has the same view as the U.S.A.

SHRI B. K. P. SINHA: I want to know, Sir, whether they will have any say in this matter.

SHRI JAWAHARLAL NEHRU: I do not know.

BEGAM AIZAZ RASUL: May I ask one question? The reason given is that

because India did not sign the San Francisco treaty, therefore she is excluded. May I know whether there was any other country represented on the Tribunal which had not signed this San Francisco treaty but which is now included amongst the members, or is India the only country of this category?

SHRI JAWAHARLAL NEHRU: For one, U.S.S.R. did not sign it.

MR. CHAIRMAN: And there is no Tribunal. We are now concerned with certain consequential matters as a result of the actions of the Tribunal taken long ago.

The questions are over.

QUESTION OF PRIVILEGE

SHRI P. SUNDARAYYA (Andhra): Sir, I would like to make a statement, because my name has been brought in in the other House on the question of the privilege motion, that I have submitted voluntarily, and as such I would like to make my position very clear. Sir, at that time I had not made any aspersions or any remarks on any Member of the other House or on the House as such. All that I had done in that connection was only to refer to Dr. Sinha's case that was before the Privileges Committee and the only remark that was attributed to me was that Dr. Sinha was finding it difficult to get out of the situation. Even then the other House and the Speaker, Sir, thought that it was a breach of privilege and referred the case to a Committee of Privileges. I thought that if either House, and specially the Speaker or the Chairman, feels that any speech made by any Member of Parliament outside the House is a breach of privilege, then, certainly, taking into consideration the sovereign role of Parliament, it is the job of every Member of Parliament to go and defend his action and if he is found to have said really something derogatory to Parliament, make appropriate amends—apologise or some