

[Secretary]

tions of Service) Bill, 1954, which was passed by the House of the People at its sitting held on the 24th April, 1954, has been passed by the Council of States at its sitting held on the 12th May, 1954, with the following amendment:—

“That for the existing enacting formula of the Bill, the following be substituted, namely:—

‘Be it enacted by Parliament in the Fifth Year of the Republic of India as follows:—’”.

I am, therefore, to return here-with the said Bill in accordance with the provisions of rule 126 of the Rules of Procedure and Conduct of Business in the Council of States with the request that the concurrence of the House of the People to the said amendment be communicated to the Council.

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MINIMUM WAGES (AMENDMENT)  
BILL

DELIVERY OF BOOKS (PUBLIC  
LIBRARIES) BILL

HIGH COURT JUDGES (CONDI-  
TIONS OF SERVICE) BILL

Secretary: Sir, I lay on the Table of the House the following three Bills which have been returned by the Council of States with an amendment:—

- (i) The Minimum Wages (Amendment) Bill, 1954.
- (ii) The Delivery of Books (Public Libraries) Bill, 1954.
- (iii) The High Court Judges (Conditions of Service) Bill, 1954.

PAPERS LAID ON THE TABLE

PRESS NOTE ISSUED BY THE GOVERNMENT OF INDIA REGARDING INDIA'S RIGHTS AND JURISDICTION AS MEMBER OF THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST.

Mr. Speaker: The Prime Minister will lay on the Table the copy of the Press note issued by the Government of India regarding India's rights and jurisdiction as member of the International Military Tribunal for the Far East, and then make a statement regarding the notice for calling attention to a matter of urgent public importance.

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): I beg to lay on the Table a copy of the Press Note issued by the Government of India regarding India's rights and jurisdiction as member of the International Military Tribunal for the Far East, containing a statement on the question of Japanese war criminals. [Placed in Library. See No. S-167/54.]

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CALLING ATTENTION TO A  
MATTER OF URGENT PUBLIC  
IMPORTANCE.

INCLUSION OF PAKISTAN AS THE LEGAL  
SUCCESSOR OF UNDIVIDED INDIA IN  
THE CLEMENCY ARRANGEMENTS.

Sardar A. S. Saigal (Bilaspur): Sir, under Rule 215, I beg to call the attention of the Minister of External Affairs to the following matter of urgent public importance and I request that he may make a statement thereon:—

“(1) It is alleged that Government of India have rejected as illegal the inclusion of Pakistan as the legal successor of undivided India in the clemency arrangements.

(2) The power of clemency to reduce sentences on Japanese

convicted of war crimes, by the International Military Tribunal for the Far East is alleged to be restricted to Governments which signed and ratified the San Francisco Treaty of Peace.

(3) It is said that in 1952 the question of clemency for the convicted Japanese was referred by the Government of Japan to the Government of India and other tribunal members. It is also said that U.S.A. Government informed the Japanese Government that jurisdiction in the question of clemency was restricted to such countries on the tribunal as had signed and ratified the San Francisco Peace Treaty.

(4) Whether India's right to participate in the clemency proceedings was inherent in her membership of the Tribunal.

(5) Whether Government has also considered that the inclusion of Pakistan in the clemency proceedings as successor to India, because Pakistan is a party to the Treaty and India is not, is warranted and legally tenable."

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** If you would permit me, Sir, instead of trying to answer the question seriatim, I shall make a brief statement on the facts. This is somewhat overlapping the paper I have already laid on the Table of the House.

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

[Shri Jawaharlal Nehru]

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 devolve 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 which I have just laid on the Table of the House. 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.

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#### PAPER LAID ON THE TABLE

#### NOTIFICATION UNDER THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1952.

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** I beg to lay on the Table a copy of the Ministry of Works, Housing and