16.12 hrs.

TERRITORIAL ARMY (AMENDMENT) BILL

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI SHIVRAJ V. PATIL): I beg to move:

"That the Bill further to amend the Territorial Army Act, 1948, be taken into consideration."

The Committee on Subordinate legislation of Sixth Lok Sabha in its Twentyfirst Report recommended that the rules framed by the Central Government should be laid before both Houses of Parliament. The Government has accepted the recommendation of the Committee and this Bill is introduced in the House to see that the recommendations are made part of the Act. This is a technical Bill and it does not require much of discussion. I would request hon. House to consider it favourably.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Territorial Army Act, 1948, be taken into consideration."

SHRI HANNAN MOLLAH (Uluberia): Mr. Chairman, I support the Territorial Army Amendment Bill, because it will provide Parliament an opportunity to discuss the fate of the personnel of the territorial army when the Government frame rules regarding them, as they will be placed before Parliament under this amending Bill.

While supporting the Bill, I would like to make certain points regarding the territorial army for the consideration of the Government. Though the territorial army implies participation of the people in the defence of the country, in the course of the development of our defence, this force did not get its proper due from the Government. They should get their proper importance. But Government are afraid of the participation of the people. So, they depend on mercenary type of forces. That is why they are not developing the people's force for defence purposes. They depend on the mercenary type of forces which were formed by the imperialists. But the Territorial Army should get more importance in the defence. They are the second line of defence, but they should get the chance in the first line of defence more and more in future. So, their case should be considered more sympathetically and they should get more importance in our defence.

Secondly, this Territorial Army played an important role at the time of natural calamities and at other times. They play an important role in the war time and at the same time when there are any natural calamities, they also play an important role. But they are ill-equipped with the instruments and other things. They are not able to get important training. So, they are not able to discharge their duties properly. If all young people of our country are given military training, a better training, and if they are asked to join this Army, then a people's force will be developed and defence will be less expensive but more effective in the real sense of the people's defence. So, this Territorial Army should get better equipment on the lines as the military gets.

SHRI SHIVRAJ V. PATIL (Latur): Sir, may I make a submission?

MR. CHAIRMAN: There is only one hour's time. Let the new Member get a chance.

SHRI HANNAN MOLLAH: The Territorial Army should maintain good relation with the people. But we have seen that this Army has been used against the people. During Locomen's strike and Posts & Telegraphs strike, these people are used against the people. So, they cannot be the real friends of the people, they can only be the enemies of the people. This attitude should be changed and this force should be utilised in a proper manner and their other facilities, their allowances, their recruitment procedure and other things, should be looked into so that

this force could be utilised and assigned a role in the national life properly and on the basis of this amendment, the rules will be framed for the betterment of the Territorial Army and I hope they will be able to play a better role in our defence. So, I support this amendment as it will provide a chance for the Parliament to discuss regarding the fate and the role of the Territorial Army.

SHRI AJITSINH DABHI (Kaira): Sir, this belated action of the Defence Ministry to incorporate in the Territorial Army Act of 1948 a provision for laying before the Parliament the rules framed under that Act calls for serious attention of this august House.

Sir, the Territorial Army is not simply a citizens' force consisting of civilians who are eager to play a role in the defence of the country as the officers in the Defence Ministry have tried to make out in the Report of the Ministry of Defence. As you know, under Section 6(a) of the Territorial Army Act, the Government can require any male person of 21 years or above serving in the Government or in public utility service to perform military duty. The persons so required can be compelled to report themselves at the time and place as directed by the authority. As in the regular Army there are in the Territorial Army Commissioned and non-Commissioned Officers, Medical Units, Infantry Batallions etc. Again the Territorial Army is liable to perform military duty and to support and supplement the regular Army on the battlefield within the territory of India. When on duty the Territorial Army forces are subject to the Army Act of 1950 and the rules and regulations framed thereunder. Not only that, if an officer or a Member of the Territorial Army commits offence under the Army Act, he will be taken in to military custody and will be tried and punished by the military authority. So far as the Territorial Army is concerned, it is a part and parcel of our regular army.

Now under Section 14 of the Act the Parliament has delegated powers to the Governent—*i.e.* the Ministry of Defence to make rules to carry out the purposes of this Act.

14(aaa) says—that Government shall have power to prescribe manner and period for which and the conditions subject to which any person may be required to perform compulsory service in the Territorial Army.

Then (h) empowers the Government to make rules to provide for any other matter which under the Act is to be or may be prescribed.

This is an omnibus provision by which such wide powers have been delegated by the Parliament to make rules that may not, sometimes, be sought to be prescribed by the Act. All the rules framed under Section 14 must be subject to the scrutiny by the Parliament so that Parliament can decide whether the rules framed are really made for the purpose. The Parliament cannot scrutinise these rules unless there is a provision in the Act for laying the rules before Parliament.

Since 1974 *i.e.* for the last six years this august House through its Committee on Subordinate Legislation has been repeatedly telling the Defence Ministry to take steps to incorporate in the Act a provision for laying before the Parliament the rules framed under Section 14. But the Officers in the Ministry of Defence have been showing disrespect amounting to contempt of this House by repeatedly refusing to carry out the direction of this august House made through the Committee on Subordinate Legislation. Not only this but also the language used by these officers in reply to the several reminders given by the Lok Sabha Secretariat is highly objectionable and sometimes it is insulting.

I may refer to page 15 para 49 of the Twentyfirst Report of the Committee on Subordinate Legislation—

"..the question of making amendment to the Territorial Army Act, 1948 to incorporate a provision therein for laying the rules/amendments

[Shri Ajitsinh Dabhi]

framed under the said Act, on the Table of the House of Parliament, had already been considered on more than one occasion and replies were sent to the Lok Sabha Secretariat under this Ministry Office Memorandum No. 28(1)74-D(G.S.II) dated the 28th September, 1974 and 20th March, 1975 stating that there had not been any occasion to bring forward any legislative measures to amend the Territorial Army Act, 1948 and hence it had not been possible to incorporate the said provision therein, as recommended by the Committee on Subordinate Legislation."

Such is the audacity of the Defence Ministry Secretariat that they flatly say that they cannot carry out the direction of our Committee on Subordinate Legislation as there is no occasion to do it. This august House can well ask the question—who are these officers sitting in the Defence Ministry Secretariat who tell this House that it is not this august House but they will decide the occasion on which steps will be taken to amend the Act as required by this House? Not only that. As if they are superior to Parliament they have expressed displeasure at the repeated reminders made by the Lok Sabha Secretariat.

I may further quote from the same reply:

"....even though an amendment as recommended by the Committee on Subordinate Legislation has not been made to Territorial Army Act, 1948, Ministry of Defence have kept in view the need to lay on the Table of the House such Rules, Regulations, etc. framed under the said Act, as were considered of sufficient public importance."

The bureaucrats in the Ministry of Defence seem to arrogate to themselves that it is not this august House but it is they who have the powers to decide as to whether the rules are or are not of sufficient public importance.

Again, I quote:

"In the light of the position explained above, it has not been found necessary to incorporate a provision in the Territorial Army Act in regard to the laying of the rules framed thereunder on the Tables of the Houses of Parliament. The matter has again been examined and as the position remains unchanged, it is not proposed to bring forward any legislative measure to amend the Territorial Army Act, 1948 to incorporate the said provision therein at this stage, However, as and when any amendment to the Act is considered necessary in future, steps would also be taken to incorporate a provision therein for the laying of all rules framed thereunder."

Look at the arrogance of the officers of the Defence Ministry. They say, they do not find it necessary to incorporate a provision in the Territorial Army Act for laying of the rules before the Parliament. They say, they will take steps only then they think it necessary to lay the rules before the Parliament. I have not heard of more serious a contempt of this august House than this.

It is also argued in the reply, in their communication dated 28th August, 1978, by the Ministry of Defence that amending an Act of Parliament involves considerable administrative and procedural work both in the Government and in the Parliament and that they will bring the amendment proposed by the Committee on Subordinate Legislation as and when any other substantive amendment to the Territorial Army Act will be made. It is very amusing to hear this argument of the officials of the Ministry of Defence that a short and simple amendment of only eight lines which is found verbatim in several Acts of Parliament will involve considerable administrative and Parliamentary work. The provision in the various Acts of Parliament for laying of rules before the Parliament confers upon the Parliament the right to amend, modify or annul the orders which are

framed in pursuance of the power delegated under those Acts.

Thanks to our hon. Prime Minister, Shrimati Indira Gandhi, who is a staunch believer in parliamentary democracy, that at her instance, now this Bill to amend the Territorial Army Act has been brought by the hon. Minister of State for Defence in pursuance of the longstanding desire of this august House. The Prime Minister has rightly rejected the argument of the officials of the Ministry of Defence that this amendment can be brought only after some substantive amendment is made in the Act. I would like to know the reaction of the Minister of State for Defence in respect of the officers who have used disrespectful language in their reply and who have by repeatedly refusing to carry out the direction of this august House for long four years deprived it of its right to scrutinise the rules framed under the power delegated by Parliament.

During the Janata regime, red-tapism had been rampant in every department of the Government, including the Defence Department. Red tapism is another name of stagnation. 'Red tape' is heartless and ruthless and if the Government will not tame red-tape, the 'red tape' will tame the Government. I hope that then Hon. Minister of State for Defence will beware of this 'red tape.' With these words I support the Bill.

श्री मूल चन्द डागा (पाली) : सभापति जी, मुझे इस बात की खुशी है कि आप सबार्डिनेट लेजिस्लेशन कमेटी के चेयरमैन रहे हैं और आज यह क्वाएंसिडेन्स है कि इस समय आप यहां पर प्रेजाइड कर रहे हैं। मुझे बार बार कहते हुए शर्म आती है, जो इन्होंने आब्जेक्ट्स दिए हैं, मैं समझता हूं जब डिफेन्स मिनिस्टर यहां पर बात करेंगे तो थोड़ा अफसोस जाहिर करेंगे। आज से बीस साल पहले लोक सभा ने कह दिया था और आप आज बीस साल के बाद कह रहे हैं कि हमको छठी रिपोर्ट से मालूम हुआ। आप देखें कि छठी रिपोर्ट में क्या कहा गया है।

छठी रिपोर्ट में कहा गया है :

"They are surprised that their recommendation made in paras 36-37 of Third Report (First Lok Sabha) for incorporation of a provision in Acts for laying of rules framed thereunder before Parliament, though accepted by Government, has not been kept in view while bringing Amending Bills subsequent to the presentation of that Report to the House on the 3rd May, 1955."

पहली लोक सभा में ही आप से कह दिया गया था लेकिन हमारी कमेटीज़ की परवाह कौन करता है ?

आपकी भी जो 21वीं रिपोर्ट निकली उसमें आपने भी कहा है :

"The Committee are unhappy to note that the Ministry of Defence have failed to realise the importance of incorporating laying provision in the Territorial Army Act, 1948. The Committee find that instead of carrying out the direction of the Committee expeditiously, the Ministry have given a perfunctory reply that undertaking of legislation by way of an amendment to an existing Act of Parliament involves considerable administrative and procedural work both in Government and the Parliament. The Committee observe that here the question is more of propriety than of administrative convenience of the Ministry. The Committee further observe that the laying provision in the Acts confers on Parliament a right to amend, modify or even annul the Orders framed in pursuance of the powers delegated under those Acts. Non-incorporation of the laying provision in the Acts results in denial of such a right to Parliament.

The Committee, therefore, desire the Ministry to bring forward necessary amendment to the Territioral

[श्री मूल चन्द डागा]

Army Act to incorporate therein the 'laying provision' at their earliest but in no case later than the Autumn Session, 1979."

मैं एक बात जानना चाहता हूं कि 1948 के ऐक्ट के सेक्शन (14) के अन्तर्गत आपने रूल्स ऐंड रेगुलेशन्स बनाए उनको आपने सदन की मेज पर रखा या नहीं ? मंशा यह थी कि ब्यूरोक्रैट्स को सेक्शन (14) के अन्तर्गत जो रूल्स बनाने थे उनको एग्ज़ामिन किया जायेगा कि आया वह ऐक्ट के स्कोप में आते हैं या नहीं। आपने 1948 में ऐक्ट बना दिया और उसके बाद आज 1980 में आ रहे हैं और हमारे सामने रूल्स ले डाउन कर रहे हैं। डिफ़ेंस मिनिस्ट्री अपने आप अफसोस जाहिर करे कि यह इन की गलती थी कि

We have never abdicated our powers to the authorities. Parliament does not abdicate its rights.

उन्होंने उत्तर लिखा है कि हमें ज़रूरत नहीं है। सबोर्डिनेट कमेटीज़ ने जो अपनी रिकमेंडेशन्स दी हैं, फर्स्ट रिपोर्ट फर्स्ट लोक-सभा में उसमें कहा है कि जो भी रूल्स, रैंगुलेशन्स और बाइ-लॉज बने वह सदन की मेज पर रखे जायें, ताकि पार्लियामेंट के लोग उसको देख सकें, लेकिन इसके बावजूद भी इन्होंने वायोलेशन किया और 1980 के अन्दर आज जब नए डिफेंस मिनिस्टर आए हैं तब उन्होंने इसको उठा कर रखा है। छठी लोक सभा में यह लिखा हुआ है कि आप मेहरबानी करके अपने कानून और अपने नियम बनाइए। ये सारे एक्ट अगर कोई पढ़े और मेरे ख्याल से इसमें ज्यादा अच्छी तरह से जनरल स्पैरो साहब बतला सकते हैं, वह मिलिटरी में रह चुके हैं कि किस प्रकार से 1948 के एक्ट के बाद जो आपके रूल्स बनें, सारी गवर्नमेंट की पावर उन्होंने ले ली और वे लोगों को अपनी इच्छा से भरती करते थे। कानून इन्होंने बना लिए, जो पावर्स इनको चाहिए थी, वह इन्होंने ले ली और इन पावर्स को लेकर इन्होंने काम किया, रूल्स एण्ड रैंगुलेशन्स बनाए, यह कोई छोटा सा दोष नहीं हैं।

16.36 hrs.

[MR. SPEAKER *in the Chair*].

अध्यक्ष महोदय आ गए हैं, इसलिए मैं कहना चाहता हूं कि 1980 के अन्दर अब रूल्स ले-डाउन करके क्या करेगा हमारा डिफेंस विभाग। मेरा कहना यह है कि पार्लियामेंट कमेटीज़ की जो रिपोर्ट्स, होती हैं, उनको कौन काम में लाता है। कोई इस पर ध्यान नहीं दिया जाता है। पहली रिपोर्ट, पांचवीं रिपोर्ट, छठम रिपोर्ट और 30 साल के बाद हए कहते हैं कि कितने आफिसर्स बना दि तथा 1948 का एक्ट लेकर हम 1980 में कह रहे हैं, तो कौन इसकी प्रशंसा करेगा। अध्यक्ष महोदय मौके पर आ गए हैं और वह सेफगार्ड करेंगे कि किस प्रकार हमारे राइट्स का हनन किया जाता है। रूल्स को ले डाउन करने का प्रोवीजन है, लेकिन इन्होंने 30 साल तक उनका वायोलेशन किया और हमें चलेंज किया और कहा कि हमें जरूरत नहीं है

Parliament does not abdicate its rights to the subordinate officers.

इन्होंने हमारे राइट्स का इन्क्रोचमेंट किया और रूल्स बना दिए

The Committee on Subordinate Legislation cannot go into the rules, nor Parliament can go into these rules and regulations.

इसलिए यह बहुत बड़ा सवाल है, कोई छोटा सा सवाल नहीं है। यह टेरीटोरियल एक्ट का सवाल नहीं है कि एक छोटा सा अमेंडमेंट लेकर आए हैं, यह अमेंडमेंट तो पहले भी आया, आप अपनी भूल को मानिए और जो 30 साल में आपने इतने सारे रूल्स एण्ड

रैगुलेशन्स बना दिए हैं, वे सारे रूल्स एड रैगुलेशन्स मैं आपको बताऊंगा (व्यवधान) . . . . आपने कौन से किए थे . . . . . (व्यवधान) . . . . मेरा सवाल यह है कि जो रूल्स और रैगुलेशन्स बने, वे मेहरबानी करके जो हमारी रिपोर्ट आए, उसके आधार पर आपको तुरन्त सदन में मेज पर रख देने चाहिएं। सैकशन 14 में प्रोवीजन के मुताबिक आज 30 साल के बाद आपको इस बात का ख्याल आया—आपकी बड़ी कृपा है। इन्होंने देश का बिल्कुल बंटाधार कर दिया है, क्या इस प्रकार की डिफेंस विभाग से आशा की जा सकती थी। इसलिए मैं कहना चाहता हूं कि उन आफिसर्स को विदा करो। ये आफीसर्स ऐसे है जिन्होंने 20 साल तक हमारी कोई बात नहीं सुनी, कोई परवाह नहीं की और रूल्ज बनाते चले गए। पार्लियामेंन्ट ने कुछ पावर्स सबोर्डिनेट लेजिसलेशन कमेटी को दी है, लेकिन इन्होंने उसको नहीं माना। सारी पावर्स खुद ले ली, रूल्ज बनाते चले गये और यह स्थिति पैदा कर दी कि हम उन को एक्जामिन भी नहीं कर सकते। 20 साल में इन्होंने जो गोलमाल किया है, मौका मिलेगा तो उस को हम एक्जामिन करेंगे और आप को बतलायेंगे कि कितने गलत काम हुए हैं।

16.42 hrs.

ANNOUNCEMENT RE. WELCOME TO CZECHOSLOVAK PARLIAMENTARY DELEGATION

MR. SPEAKER: Hon'ble Members,—At the outset I have to make an announcement.

On my own and on behalf of the Hon'ble Members of the House, I have great pleasure in welcoming His Excellency Mr. Alois Indra, Chairman of the Federal Assembly, Mademe Libuse Indrova and the Hon'ble Members of the Czechoslovak Parliamentary Delegation who are on a visit to India as our honoured quests. The other Hon'ble Members of the Delegation are:—

1. Mr. Frantisek Tesar, M. P.
2. Mr. Joseph Prchal, M. P.
3. Mrs. Antonie Bajerova, M. P.
4. Mrs. Majia Paulechova, M. P.
5 Mr. Juraj Turosik, M. P.

The Delegation arrived here this morning and will be in India for about a week. They are now seated in the Special Box. We wish them a happy and fruitful stay in our country. Through them we convey our greetings and best wishes to the Federal Assembly, Government and the freindly people of the Czechoslovak Socialist Rebublic.

TERRITORIAL ARMY (AMENDMENT) BILL—*Contd.*

श्री चतुर्भुज (झालावाड़) : माननीय अध्यक्ष महोदय, राज्य रक्षा मंत्री जी जो बिल लाये हैं उस का मैं वास्तव में स्वागत करता हूं। हमारे अन्य सभी साथियों ने भी इस का स्वागत किया है। यह बिल बड़े महत्व का बिल है। हमारे डागा साहब और अन्य साथियों ने जो भाषण दिए सभी ने इस बात को कहा कि यह बिल बड़ा महत्व रखता है। समय समय पर हमारे जितने भूतपूर्व रक्षा मंत्री हुए हैं, चाहे बाबू जगजीवन राम जी हो, बंसी लाल जी हो या चरण सिंह हों—सब ने टैरिटोरियल आर्मी की गौरवमय गाथा गाई है, इस के शौर्य का बखान किया है, लेकिन आज प्रश्न यह है कि इस के शौर्य और रंग-रूप का बखान करने के अलावा हम ने इस