

measure, the unloading of cargo which was being done at Madras and Vizagapatnam is being done at Haldia Anchorage which is situated about 56 nautical miles from Calcutta. The present arrangements are limited to current fair weather season ending February, 1960.

Haldia not being within the limits of the Calcutta Port, the provisions of the Dock Labour Scheme cannot be made applicable to the loading and unloading of the ships there. However, according to the terms of an agreement signed by the various interests concerned, on the 29th October, 1959, the present stevedoring arrangement at Haldia will not be renewed after the present fair weather season; arrangements for next fair weather season, beginning from November 1960, will be made after consultation with the labour interests with a view to employing the workers connected with the Calcutta Dock Labour Board and in case any loading is done at Haldia during the present season it will also be entrusted to the same workers.

Some workers misunderstood the above arrangements, and, therefore, objected to it which led to violence. To deal with the situation, the Chairman of the Calcutta Dock Labour Board with the previous approval of the Central Government, declared an emergency in the Port of Calcutta. Subsequently, representatives of the Calcutta Dockers Union met me and on getting clarification of the terms of the agreement, agreed to withdraw their objection. Consequently, normal working has been resumed and the emergency declaration will also be withdrawn if its further continuance is not considered necessary.

Shri Braj Raj Singh: When will this order be withdrawn?

Shri Abid Ali: Whenever its continuance is considered unnecessary.

12.29 hrs.

ARMS BILLS—contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri B. N. Datar on the 1st September, 1959, namely:—

“That the Bill to consolidate and amend the law relating to arms and ammunition, as reported by the Joint Committee, be taken into consideration”

Shri Datar was in possession of the House. Originally five hours had been allotted and only 35 minutes remain, we have spent the rest of the time. He has to reply to the debate on general discussion. How long would the hon. Members require for the clause-by-clause consideration?

Shri Braj Raj Singh (Ferozabad): There are so many amendments that we require the whole day.

The Minister of State in the Ministry of Home Affairs (Shri Datar): At most, another two hours would be sufficient. I mean not more than two hours including these 35 minutes that are left.

Shri Naushir Bharucha (East Khadesh): There are 134 amendments.

Mr. Speaker: I shall effect a compromise. We are at 12.30 now and the hon. Minister will conclude at 1 O'clock. Till three O'clock this will go on and we will conclude all these stages by that time and take up the other Bill.

Shri Datar: Mr. Speaker, Sir, we had a fairly detailed debate yesterday, covering over four hours, regarding the principles as also the provisions of the Arms Bill which was considered fully by the Joint Committee.

Mr. Speaker: Order, order. He may first make a formal motion for extension of time.

Shri Datar: Sir I beg to move:

"That the time allotted by the House on the 11th August, 1959, (vide Fortieth Report of the Business Advisory Committee) for consideration and passing of the Arms Bill, 1958 as reported by the Joint Committee be extended from 5 hours to 7 hours."

Mr. Speaker: The Question is:—

"That the time allotted by the House on the 11th August, 1959, (vide Fortieth Report of the Business Advisory Committee) for consideration and passing of the Arms Bill, 1958 as reported by the Joint Committee be extended from 5 hours to 7 hours."

The motion was adopted.

Shri Datar: Sir, I was making a reference to the Report of the Joint Committee. The Joint Committee made a number of improvements in the provisions of the Bill as originally placed before this House. I am happy to note that hon. Members from both the sides, even though they were critical regarding, what they call, the insufficiency of liberalisation, were satisfied with the present Bill as it has emerged from the Joint Committee as a number of very important and salutary improvements have been made by the Joint Committee. Therefore, so far as this question of improvements is concerned, that has been welcomed almost by all the hon. Members who participated in this debate.

Now, I would like, in this particular connection, to mention the name of my hon. friend, Pandit Thakur Das Bhargava, who made certain very valuable suggestions though in other respects he was critical about the provisions of the Arms Bill.

Then, two or three points which were repeatedly made out by hon. Members opposite have been effectively answered by my hon. friends Shri Achar and Shri Raghuraj Sahai and,

in particular, by Shri Padam Dev. These were the main points made by a number of hon. Members and, therefore, in respect of them my answer will be as brief as possible.

Before I proceed, Sir, I should like to deal with the general observations made by a number of hon. Members. It was suggested that Gandhiji was highly critical of the provisions of the Arms Act, which he called the "Black Act" or the "Blackest Act". That was perfectly true, because the Act that was then in use and the rules that had been framed by the British Government were of such a nature that it could not but be called as the "Blackest Act". There were a number of provisions there which were galling to the self-respect of India and, secondly, in respect of the implementation of this Act certain highly rigorous and discriminatory steps were taken by the British Government. Therefore, that epithet as was used by Gandhiji was perfectly correct.

After the advent of independence we have to take into account the present position. Just as, on the one hand, we have the achievement of independence to our greatest credit, there is also, on the other hand, very unfortunately, the emergence of certain anti-social elements on India's soil. That also has to be taken into account. That is the reason why I pointed out yesterday that the Government have to take into account, on the one hand, the legitimate desire of the citizens of India to have licences as freely as possible and, on the other hand, the overriding considerations of the security of India and of the peace and safety of the Indian nation.

I would invite the attention of this hon. House to what has been pointed out by a number of very important witnesses who were examined by the Joint Committee. We have certain special conditions in India which are far from satisfactory, and that is the reason why it has become necessary to take certain steps, not for the purpose of removing the liberalisation

but for the purpose of protecting the nation against dangerous activities carried on by a number of anti-social elements. That fact has to be fully noted, and I was happy that at least two hon Members made a reference to this particular difficulty of the Government of India and the State Governments. They stated that at all costs one has to be particular in taking into account the overriding considerations regarding the safety and peace of the country while dealing as liberally as possible with the provisions of the present Arms Bill.

Then, we have also to take into account one more factor which has been unfortunately missed by a number of hon Members. A number of hon Members stated, without any justification, that what we have done is almost to copy the original Arms Act and the Arms Rules. That is far from correct. May I point out in this connection what we have done. We have retained only those matters which are of a purely procedural nature and which are not likely to be misinterpreted by the licensing authority. I may also mention here the fact that the present provisions of the Bill are based to a large extent on the U.K. Firearms Bill and here and there we have taken certain salutary provisions from the other Acts. Thus it will be found that it would not be correct to say that we have merely maintained almost all the provisions of the original Arms Act. Take for example, the very important provision the very liberal provision that we have made. Though this would be called the Arms Act and though under certain exceptional circumstances it would become necessary to regulate the arms in general, I may point out that normally this Bill will apply only to firearms so far as the taking of licences is concerned.

It has been called the Arms Bill because there are likely to be circumstances when it may be necessary to regulate the possession of arms. Such a likelihood, I may point out, may not be necessarily within the bounds of actuality. There are often

times, as it has been pointed out by some witnesses, certain highly intriguing situations, disturbing trends here and there in the States. If, for example, we do not have a provision for an extreme occasion, then the situation is likely to go out of control. That is the reason why the definition of the word "arms" has been retained and a special power has been taken under exceptional circumstances. The House will kindly understand that normally such arms will not be regulated, but only when there is an emergency, as it is called, only when there is the need for the exercise of special power, will these other arms be regulated.

There also the Joint Committee has made an important departure. It has stated that these particular arms in respect of which such a regulation has to be made ought to be specifically pointed out in the notification that the Government would be issuing in this respect. Therefore, it would not be proper to say that the Arms Bill or the Arms Act that would be passed would apply to all arms.

Therefore, without repeating the whole matter I would like to point out here that there are three categories which have to be fully taken into account. One category is, those arms or other things which are likely to be used for domestic or agricultural purposes. They are beyond the purview of the present Act. I would, in this connection, invite the attention of hon Members to the particular provision that we find in the definition given in clause 2(c). There it is said

" 'arms' means articles of any description designed or adapted as weapons for offence or defence, and includes fire-arms, sharp-edged and other deadly weapons, and parts of and machinery for manufacturing arms, but does not include articles designed solely for domestic or agricultural uses "

This point has been made clear by us in view of a number of rulings on this point so far as the original Act was

[Shri Datar]

concerned. Therefore, this is in keeping with the assurance that we had given, that arms used solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys will be kept beyond the purview of the provisions of the Arms Act.

With regard to air-rifles and other things, reference was made to certain types of weapons which are used as toys. If, for example, this definition had been taken into account, then naturally there would not have been that criticism which we had yesterday about it. The first category is very clear. The arms or weapons which are used for agricultural or domestic purposes are not within the purview of the Arms Bill at all. The second category is that the arms ordinarily will not be within the purview of this Act except under clause 4 where it has been stated very clearly thus:

"If the Government of India is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest,"

the words may kindly be noted—

"...that the acquisition possession or carrying of arms other than fire-arms should also be regulated, it may,...." etc.

Then you will find that a notification has to be issued and the arms of such classes have to be specified. This is the second category.

So far as the third category is concerned, I agree that fire-arms ought to be controlled and there ought to be a licence. Some hon. friends suggested that we have not been going so far as the UK Act. May I point out that in the UK Act there are stronger restrictions. There they have stated that it is a case of certification, it is a case of granting a certificate. If hon. Members go through the provisions of the Arms Act they will find that all that we have done is, we have not

maintained the word "certificate", but we have put in the expression "licence". In other respects, may I point out that we have followed the provisions of the UK Act. There are a number of circumstances and occasions where we have gone a bit further also.

May I point out another very important point of distinction between the Indian law and the UK law? In the UK law, it should be understood very clearly that certificate has to be granted by the chief police officer. Here in India, under the Arms Bill, the licence has to be granted by the district magistrate and in selected cases by the officer below him. Thus, here, it is the magistracy that is the granting or the licensing authority and not the police officer at all. That is one of the most important points of distinction between the English law and the Indian law.

We have also made other provisions in regard to the refusal to grant a licence. When a man is not fit for holding a licence we have got a similar expression in the English law in this respect. Therefore, I would point out that we have tried our best to follow the English law, but even there, we have maintained the position that as far as possible we should try to make a liberal use of the powers that have been granted to the various States.

In this respect, it would be kindly noted that in the UK law, the purchase, possession, bearing, manufacture and the sale of fire-arms are regulated by the Fire-arms Act, and a certificate has to be granted by the chief police officer. Similar provisions of a precautionary nature have been included in their Act. The police officer shall grant a certificate if he is satisfied that the applicant has a good reason for acquiring or having in his possession the fire-arms. We have used almost identical expressions, and said that the

persons can be permitted to keep the arms without danger to public safety and peace. In UK, the certificate shall not be granted to an applicant if the chief police officer believes that it is prohibited under the Act or he is of intemperate habits. The House will kindly note that we have not used these expressions at all, showing the various circumstances under which a disability or a disqualification is likely to follow. The UK Act has used the words "intemperate habits". Here we have not used that expression. But in a particular case, where the intemperance is of a very serious nature, then action can be taken under the general and residuary provisions that have been laid down and are allowed to us. A licence will not be granted to a person who is of unsound mind or is otherwise not fit to be entrusted with fire-arms. I would, therefore, tell hon Members who criticise us, that we have borrowed very largely from the UK Act. It would not be proper to suggest that we have maintained the old Act by garbing the provisions, as some hon friend suggested, with a different saree. That suggestion is entirely incorrect. The Bill has been improved in material particulars and it is on a par with the UK Act except that in view of the realities of the situation in India we have, under exceptional circumstances, made it possible for Government to take action in respect of specified arms.

I need not point out the numerous departures that we have made from the original Arms Act. I would submit that what we have done is fairly satisfactory. My hon friend Pandit Thakur Das Bhargava, rightly suggested that this aspect was not made one of the fundamental rights in the Constitution. This question, I believe, was discussed during the debates of the Constituent Assembly. The Constituent Assembly had put in one expression in article 19(1)(b) where it is stated that it is a fundamental right of citizens to assemble peace-

fully and without arms. So, the question of the misuse of arms and the probably abuse of arms was before the Constituent Assembly and they did not specify among the fundamental rights the right to hold arms. On the other hand, they said

Pandit Thakur Das Bhargava (Hissar) Assembling without arms is all right. But section 96 of the Indian Penal Code is there, relating to property, and assembly connotes more than one person.

Shri Datar: I pointed out to my hon friend that the question of the so-called fundamental right to hold arms must have been discussed in the Constituent Assembly and therefore, they have put in an expression rightly. I agree with the hon friend that the words are there and have to be there.

Then I shall pass on to the other points. My hon friend Pandit Thakur Das Bhargava suggested that we should take some steps as early as possible for making it possible for the people to get arms at modest rates if not at cheap rates. That is a question which has to be examined and the Government of India are taking some steps in that direction. The defence authorities have been trying their best in regard to the production of fire-arms and ammunition for civilian needs. They are looking into this question and are trying to produce to the extent that is possible, and they are also considering the question as to whether some of the arms which are ordinarily necessary for civilian use can or cannot be made available at cheaper rates. They have already established the production of 12 bore guns, etc and they are trying to see if the cost of manufacture can be reduced. It is expected that sufficient ammunition will be produced at a lower cost by about April, 1960. That question is already before the defence authorities and they would try to take this into account consistently with their own overriding requirements so far as the defence of the

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country is concerned. Therefore, what Pandit Thakur Das Bhargava has pointed out has been receiving the attention of the Government. So far as prices are concerned, we have to take into account the whole price structure. The question cannot be considered in the light of arms and ammunition only. It has to be taken into account against the background of the rise in the price structure as a whole. Let us hope that the arms and ammunitions required for civilian use will be available as early as possible and at fairly reduced rates

I would pass on to some other points made by some hon. Members. It was suggested that the right of appeal should be given to a judicial authority. I can understand that suggestion when the matter has to be decided in a judicial manner. But there are certain fundamental principles of natural justice which have to be followed. Here, for example, we have got the overriding requirements of law and order and so, the appellate authority has to be one who knows the administrative machinery through which the licence is granted. Two hon. Members rightly pointed out that this is not a matter of adjudication of private right. Now, we have got a number of offences. Naturally, in those cases, under the Criminal Procedure Code he will be entitled to appeal before judicial authorities. But here the question is about grant or refusal of licence. The propriety of the order passed by the District Magistrate has to be considered in the context of the law and order situation and public interest. These have been specifically mentioned. So, it is but right to have these powers conferred on an administrative authority.

A point was raised by some hon. Members that it ought to be possible at lower levels to grant licences for arms and ammunition, as otherwise, it is very difficult for the people to approach the District Magistrate or the higher appellate authority, viz.,

the Commissioner. May I point out that in respect of those arms which are required especially by the villagers, in certain cases provision has been made for the grant of such licences at lower levels, even at the level of tehsildars in some cases. It would not be proper to go on delegating the power in all cases to lower authorities, because it carries certain very important consequences. So, the District Magistrate is the person who ought ordinarily to be the licensing authority.

Generally whenever the licensing authority refuses a licence, the reasons for the refusal are normally given. But there might be circumstances where in public interest, it would not be proper for the licensing authority to give reasons. All the same, the appellate authority will naturally find out whether the District Magistrate has exercised his discretion properly. Only in select cases will reasons not be made public. When an aggrieved party takes the matter to appeal, it will be the duty of the appellate authority to go into all the circumstances and find out whether the discretion by way of refusal has been properly or improperly exercised.

Oftentimes hon. Members have complained that some time-limit should be laid down for the disposal of applications. I agree there ought to be a speedy disposal of all applications, but it would not be proper and it is likely to be futile to lay down a period of one month in all cases, because it is our desire that it is not necessary to take one month to dispose of every case, it ought to be disposed of earlier. That is the reason why it is not proper to mention a particular period. I am quite confident that in view of the principle underlying the new Act, the licensing authorities will be extremely careful. If there are delays, they have to explain the reasons.

Certain other complaints were made about illegal gratification. It is com-

thing which has to be cured by the public and the authorities. Wherever it is found that the authorities are guilty of such malpractices, Government take strong steps against them. But in such cases if the applicants desire to follow the usual and rather slippery course of passing on money, that is a matter which has to be taken into account by the society as a whole, because there can be no illegal gratification or corruption unless there are two parties. Unfortunately, we have got a facile desire to get whatever we like as early and expeditiously as possible. That tendency ought to be cured and I request those hon Members who made general observations that in all these cases corruption is there as a matter of course to see to it that either no illegal gratification is offered at all by the applicant or whenever it is offered, to come forward and report such incidents either to the State Governments or to us if necessary. We have got special machinery for that. In all the States also, there is a similar machinery. So, it would not be proper to induce in the minds of the public the feeling that corruption is absolutely necessary if one were to get a licence as early as possible. We should also consider that the public are responsible for the spread of corruption. If they refuse to be tempted by this, naturally it would be difficult for the officers to indulge in this. That is why I desire that we should not take that facility in the manner in which such corruption is alleged to be spreading everywhere. It is our duty to put a stop to such corruption and I would invite the co-operation of hon Members and also the public to come to the aid of Government and stop corruption at all levels, whatever might be the amount.

Some hon Members pleaded for general exemption for air-rifles, pistols, etc. There are some which are purely toys and there are others which cannot be called toys and which are likely to lead to dangerous results. It is only in the case of the latter that Government take steps to

include them for the purpose of licensing. If they are mere toys, there would be no attempt to do that.

Then, my hon friend from Coorg, Shri Achar, has suggested that something should be done, so far as certain classes of Coorgis are concerned. We are aware that the Coorgis are a great martial race and it is also historically true that for a century they were exempted from the provisions of the Arms Act. Now all that we have done is to extend the exemption to all other classes in all other States. All the same, when the question of their exemption is taken into account as a category Government will surely consider the position with such sympathy as it deserves.

13 hrs.

I believe I have replied to almost all the points and I would only submit lastly that we have tried our best to see that the provisions of this Act are as liberal as possible. I need not reply to my hon friend, Shri Raghur Sahar's contention that the members of the panchayat should be, as he calls, certifying authorities. Another hon Member, Shri Padam Dev, rightly pointed out that this may lead to abuse of the exercise of power.

Shri Raghur Sahar (Budaun):
They may be consulted.

Shri Datar: But consultation also becomes a very serious matter. We all desire that we should develop the panchayats, should democratise the panchayats, as early as possible, but till such time as we do that, the panchayats should not be used even for the purpose of making recommendations. Shri Padam Dev rightly pointed out in this respect the dangers and said that the panchayats should not be invested even with the power of making a recommendation because, as he pointed out, it is likely that such powers may or may not be used properly. I have nothing to say against the panchayats, because we are anxious to develop the democracy.

[Shri Datar]

of the panchayats as much as possible All the same, for the time being, let it be left to the licensing authorities to find out whether the man is really fit to hold a licence for which he has made an application.

Then some hon Members suggested that a mere affidavit should be enough But an affidavit, as we know, is an admission in one's own favour and it will take a long time to find out whether the contentions or the allegations in the affidavit are really true Under those circumstances, it should be left to the discretion of the licensing authorities to use their discretion properly and to call for such information and through such channels as they consider proper Then, even in the case of a wrong exercise of the power vested by the Arms Act in the licensing authority, we have got an appellate authority As you know, the appellate authority has been specially provided for the purpose of avoiding all hardships and all acts of injustice or iniquity, if at all they occur anywhere else I believe I have dealt with all the points, and I am quite confident that the House will agree to the provisions of this Bill

Shri Mohan Swarup (Pilibhit) What is your opinion about short-time licences?

Shri Datar: I find there are a number of amendments on this subject We have tried to go to the extreme limit in this respect and so I would request the hon Member not to press the Government to go farther than what we have done, taking all the circumstances into account

Shri Mohan Swarup: What is your definition of "sufficient property"? Will you please elucidate that point?

Shri Datar: I have already pointed out that even a beggar is likely to have some property, worth a pie or a naya Paisa. You cannot find a man who has no property at all The question was considered in the Joint Com-

mittee as to whether the word "sufficient" should be there. "Sufficient property", as you will find, is a legal expression In the absence of that, a man may have some property, but it may not be sufficient property Under the old rules, you will find that a man may have some property, but that property will not be considered sufficient as to entitle him to hold a licence under the old Act We have removed that altogether. Non-sufficiency of property will not be a ground for refusing a licence,—that is what I have pointed out is a great departure that we have originally made, and the Joint Committee, after considering all aspects of the case have agreed that *the word should be retained as it is*

Shri Mohan Swarup: The Joint Committee has recommended that if a man carries arms, in trunk or in cloth, then it will not be unlawful in a reserved area Are Government going to make certain amendments in that direction in the Bill?

Shri Datar: So far as the amendments suggested by the Joint Committee are concerned, we have accepted them all They have made certain suggestions for examination which will duly be examined

Raja Mahendra Pratap (Mathura): May I ask one question to the hon Minister? You are speaking of anti-social elements. What are you doing to teach them morality?

Shri Datar: We are trying to keep all anti-social elements, in whichever quarters they are, under control But I would like to point out to my hon. friend that if these people are allowed to have or to get into their hands certain types of arms, then they are likely to create a situation which would be more embarrassing than what it already is

Raja Mahendra Pratap: You begin at the wrong end You just go on making laws. Instead of making laws, if you teach these children who appear to be anti-social, that would be much

better than just loading the public with more laws.

Shri Datar: We are not loading at all. May I point out

Mr. Speaker: It is a suggestion for action

Shri P. E. Patel (Mehsana) When the anti-social elements, like dacoits, are captured or arrested and you find them possessing arms, do you find them with licences or without licences? If they are holding arms without licences, how is this Act going to check their movements?

Shri Datar: So far as the anti-social elements are concerned, may I point out that we have got a number of Acts to deal with them? But the danger is that if, for example, the arms are likely to go into their hands, the situation would become more uncontrollable and more embarrassing than what it is. May I point out to my hon friend one instance? I had been moving in one State, I shall not mention that State, nor the area. While going in that area along with the Home Minister of that State, I was surprised that within a distance of about 35 miles I received applications at every village that I passed by that arms should be given freely. Then I made enquiries and the Home Minister told me rightly that these applications were not *bona fide* at all and that if, for example, these people were given arms without making a proper enquiry, they were likely to go underground and these arms would be used for purposes which are nefarious and dangerous to the society.

Shri Achar (Mangalore) Regarding Coorg, the Minister was kind enough to give an assurance that it would be considered very sympathetically. My only request is this. Cannot Government at least give an assurance that the *status quo* will continue, because nothing has been proved against them. Previously, they were entitled to hold certain arms. My only question is whether the Minister cannot give an

assurance that the *status quo* will be continued; nothing more than that. Why merely say that will be sympathetically considered?

Shri Datar: Why *status quo*? Let them have more privileges under the new Act.

Shri Achar: I am only asking for the existing privileges.

Shri Datar: I should like the hon. Member to take the people of Coorg to a higher level whereby under the Act they will be entitled to the use of not only one type of arms to which they have been accustomed but others also. All the same I would point out to my hon friend that we are fully aware that exemptions have been granted and we shall try our best to see to it that they are maintained except when there are overriding considerations. That is what the hon. Member will have to take into account. I fully sympathise with his desire and we shall try to do whatever is possible taking his strong plea into account.

Mr. Speaker: The question is

"That the Bill to consolidate and amend the law relating to arms and ammunition, as reported by the Joint Committee, be taken into consideration."

The motion was adopted

Mr. Speaker: We will now take up the clause-by-clause consideration of the Bill. Clause 2. Government has got one amendment to it.

Shri Datar: There are a number of amendments. I should like to know which of them are being pressed.

Mr. Speaker: I am talking of the Government amendment.

Shri Datar: Government's amendment is only one.

Mr. Speaker: Let him move it.

Clause 2 — (Definitions and interpretation).

Shri Datar: Sir, I beg to move

Page 3,—

After line 27, add—

“(3) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area

(4) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazette” (12)

This amendment has been moved by Government only for the purpose of making the application of the law effective because in some areas, in the NEFA area for example, there are different officers who are called by different designations but they have the power of a district magistrate. Then in certain States, like Jammu & Kashmir, they have got their own laws and the desire is to have this reference as effective as possible

Pandit Thakur Das Bhargava: I would like to move amendments No 78, 79.

Mr. Speaker: I will dispose of this amendment first

The question is

Page 3,—

after line 27, add—

“(3) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a re-

ference to the corresponding law, if any, in force in that area.

(4) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazette” (12)

The motion was adopted

Mr. Speaker: May I know from hon Members the numbers of the amendments that they want to move.

Shri P. R. Patel: Nos 61, 62, 63 and 64 to clause 2. Then No 65 to clause 3

Mr. Speaker: No, not to clause 3 at this stage

Shri U. L. Patil (Dhulia): No 1

Shri U. C. Patnaik (Ganjam): Amendments Nos 14, 15 and 16

Shri Sinhasan Singh (Gorakhpur): Amendment No 125

Pandit Thakur Das Bhargava: Amendments Nos 78 to 82

Mr. Speaker: 78 and 82 or 78 to 82?

Pandit Thakur Das Bhargava: 78 to 82, both inclusive

Mr. Speaker: Amendment No. 81 is the same as No 63

Shri Radha Raman (Chandni Chowk): Amendments Nos 119, 120 and 122

Mr. Speaker: Are they to clause 2?

Shri Radha Raman: I am sorry, Sir.

Mr. Speaker: There are none others. All these amendments will be treated as moved

Shri P. B. Patel: Sir, I beg to move:

Page 1, line 13,—

after "firearm" insert "except a muzzle-loading gun" (61)

Page 2, line 16,—

after "firearms" insert "except a muzzle-loading gun" (62)

Page 2, line 19,—

omit "solely" (63)

Page 2, line 27,—

after "energy" insert "except a muzzle-loading gun" (64)

Shri U. L. Patil: Sir, I beg to move:

Page 2, line 17,—

omit "sharp-edged and other deadly weapons" (1)

Shri U. C. Patnalk: Sir, I beg to move

Page 2,—

omit lines 15 to 21 (14)

Page 2, line 27,—

after "other" insert "prescribed" (15)

Page 2, line 37,—

add at the end—

"but shall not include air-rifles, air-guns, air-pistols and the like" (16)

Pandit Thakur Das Bhargava: Sir, I beg to move:

Page 2, line 16,—

omit "or defence" (79)

Page 2, line 17,—

omit "and parts of". (80)

Page 2, lines 19 to 21,—

for "or agricultural uses and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons" substitute,—

"or agricultural and other uses". (82)

Mr. Speaker: These amendments are before the House

Pandit Thakur Das Bhargava: Sir, in moving these amendments my idea is that since the Government itself has been pleased to say that it does not want to use the provisions relating to the arms as such rather frequently or in a manner which may be complained of by the people in general, the nature of these arms may be restricted as also such parts of definition (c) may be amended so that the whole thing may become innocuous. My first amendment, No 72, relates to the omission of lines 15 to 21 so that it may purely be firearms Act and the word 'arms' may be taken away from it. Even if that is not acceded to, because I agree that to a certain extent in certain circumstances it may be necessary for the Government to have recourse to these provisions, I want that the provisions may be made as innocuous as possible. Therefore I submit that the words 'designed or adapted as weapons for offence or defence' be taken away from it. So far as defence is concerned, I do not think it is the view of the Government that even there are weapons which can be used for defence also. They should also be brought within this definition. Similarly, I can understand if the whole arm is objected to, but I cannot understand why parts of arms which are not in themselves arms need be objected to. They cannot be used as arms as such. They are only parts of the machinery or parts of the arms and are therefore ineffectual by themselves. Therefore it is not necessary to bring them within the definition of arms.

[Pandit Thakur Das Bhargava]

So far as the question of domestic or agricultural arms is concerned, which are useful for these purposes, the hon Minister has himself pointed out that they are excepted. But I object to the word 'solely' used in this clause. There are arms and arms which can both be used for agricultural purposes as well as for purposes of defence or offence. What is the difference between the two? *Kulhada*, for instance, is generally used as a spear etc. is used. They are used for agricultural purposes. They are used for cutting of wood for cutting even *datuns* etc. They are used for both the purposes. It will be very difficult for any person to prove that a particular weapon is solely meant for agriculture or is solely meant for domestic use. I therefore want that the word 'solely' may be taken away from it so that all those exceptions which is the hon Minister has in mind may be available to persons who claim that they are used for domestic or agricultural purposes. There is no such line of demarcation between the two at present. Therefore it is better to take away the word 'solely'. After all what we are concerned with is that they may not be used for the purpose of offence. Those weapons which are used for agricultural or domestic purposes mainly, I should say but not solely may be brought here. Therefore my humble submission is that these amendments may be accepted so that the purpose of the hon Minister himself may be effectually implemented and may not remain a pious wish only. If in the present definition every kind of weapon is included whether it is used for agricultural or for domestic purpose, then what is the use of making these exceptions? I would therefore beg of the hon Home Minister kindly to look at it from the point of view that I have suggested.

Shri P. B. Patel: In support of my amendments I only want to submit one thing. In clause 2, sub-clause (c) the word 'solely' is used for domestic and agricultural uses. I am support-

ing my hon friend in this respect because my amendment is also to that effect. I do not understand the words 'solely for domestic uses'. A pick-up can be used for domestic purposes, for cooking. At the same time, it can be used as a weapon for striking. Take a wooden rod. It can be used for domestic purposes. It can well be used for striking a man and it can fracture the skull. The word 'solely' is mis-used. I think, if we drop the word 'solely', there will be no difficulty.

So also agricultural implements *A dharia* can be used as a weapon of defence and attack also. If such a notification is issued, even all implements used in agriculture may be restricted and things used in cooking also may be restricted by such a notification. I would humbly submit that the word 'solely' is not properly used. Rather, it is absolutely not necessary. What we desire is to exempt domestic and agricultural implements. That, we can do by dropping the word 'solely'. If we read the original Act, the word 'solely' was not there. Our predecessors, the Britishers, were rather more liberal than what we are, because they did not think of these things. I would rather humbly submit that the word 'solely' may be dropped.

As regards muzzle-loading gun, also, my case is there. I am sure my hon friend the Minister will not agree with me. I am rather pained to say it. In these days of democracy, he is not prepared to trust the people to the extent that the former States trusted their people. I was a resident of the Baroda State, before Independence. There, everybody can keep a muzzle-loading gun. He can possess, it, carry it and use it and no licence was necessary. There were so many Native States in our country which exempted the muzzle-loading gun from the operation of the Arms law. My friend here says that even in the Hyderabad State, no licence was required or was necessary for possessing or carrying a muzzle-loading gun. There were so many States. My

hon. friend Shri Fatehsinh Ghodasar is a small Thakur. He is a Member of this hon. House. He was the Chief of the small state of 27 villages. There was no Arms law. Nobody misused this arm. I can say that I have been a lawyer on the criminal side for so many years. Mis-use of a muzzle-loading gun has been much less than the misuse of other weapons. So many murders have been committed by lathis than by the muzzle-loading guns. In these days of sputniks and atomic weapons, what is the good of restricting muzzle-loading guns? I would submit that a muzzle-loading gun, if allowed, would be a source of defence to the agriculturists on the fields and for the crop. I hope he will agree. But, I think, if he does not agree with me, misfortune is there, nothing else I can say.

Shri U. L. Patil, Sir, my amendment is for the deletion of the words 'sharp-edged and other deadly weapons'. That was when the word 'solely' was there. The amendments that have been put forward by my two learned friends Pandit Thakur Das Bhargava and Shri P. R. Patel make that point clear. These sharp-edged and deadly weapons can be used both for domestic and agricultural purposes. Therefore, if the word 'solely' is taken out, as has been proposed by these amendments, I might not press my amendment.

Shri Sinhasan Singh: My amendment is for the deletion of the whole clause as it is. But, I think, that may not be acceptable to the Government. As my other hon. friends have said, about agricultural implements, it is difficult to define whether they will be used solely for that purpose or they may be used for other purposes also. The wooden plough that we have, has got an iron rod. That can be used for other purposes also. It may not be used solely for agricultural purposes. We have got a kind of thing for digging earth, for domestic purpose. That may be used for other purposes. There are so many things. It will be well nigh difficult

to define. If we pass a law in this way, it will only be placing a weapon in the hands of the police to declare any agricultural implements as things which can be put to other uses for the purpose of harassing the people. What do we find in the old Act which we are going to repeal? There, arms are defined to include firearms, etc. We do not find anything of this kind. That was a much better definition than what we have here today. My request to the Government is, if we want to retain it, have the old one. Why include lathi, danda and chadri in weapons of offence and defence? As my hon. friend Shri P. R. Patel said, in my experience and also in Pandit Thakur Das Bhargava's experience, there are very few cases of murder committed by firearms. Most of them have been committed by a spear or lathi. It is very difficult to define a murderous weapon. A lathi may be a murderous weapon. A firearm may not be murderous. There has hardly been a case.

Therefore, my submission is, if you want it, retain the old definition where lathis are exempted. You will cover even lathis and chadris. My submission is this. If my amendment is not accepted, it should be modified in such a way that it may not be possible anywhere for a danda or lathi being declared as a weapon of offence or defence. Otherwise harassment will follow. By making this law, we are giving a weapon not to the public, but to the police to harass the people, and we are not doing a service to the country, but a disservice. My submission is that it should be so amended as to make it possible for the agriculturists to use their implements without any fear from any officer or police or patwari at any time ruling out all possibility of their being declared as weapons of offence if their hands are not greased.

With these remarks, I think that this clause deserves re-consideration and great consideration before a vote is taken and the Government presses for its being passed as it is.

Shri U. C. Patnaik: My amendments relate to sub-clauses (c) and (e). Sub-clause (c) as already pointed out by my hon. friend, is more undesirable and is worse than what was there in the old Arms Act of 1878. The old Arms Act defined certain arms in addition to firearms as coming within its purview. We are not defining any particular arms. But, we are referring to all weapons of offence and defence. Here, I would request the hon. Minister as I had requested him in the Joint Committee, to give us a list of what arms he wants to bring under this sub-clause. Because, we want to know what are the weapons of offence and defence that the hon. Minister wants to bring under this sub-clause. Even now, I challenge and assert that they have not got a list of arms which they want to bring under this sub-clause. With the result, that whenever and wherever they notify under clause 4 prohibiting certain arms other than firearms, the question will be, how are the people to know before hand? People have no idea of what the Government will think of prohibiting under clause 4. Therefore, at least in the Parliament, we are entitled to know what are the arms that the Government would bring under the definition of this sub-clause.

13.29 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

It is a very important point because, whenever and wherever the Government want to issue a notification under clause 4, prohibiting the use of any arms, they are entitled to put down in that notification any kind of arms. In such a contingency imagine the difficulty of a person owning a *kathi*, a knife or an axe or some other weapon which can be converted into a weapon of offence and defence. How is he to dispose of that weapon, or how is he to take a licence for that weapon? That very difficult question will come up whenever Government issue a notification that such and such arms are not to be possessed

or acquired or carried by anybody in a particular locality. It is from that point of view that we want to know if Government are prepared even now, if they want this Bill to be passed in the House, to give us an idea of the types of weapons that they would like to include in sub-clause (c).

Secondly, as regards sub-clause (e), I would submit that air guns, air rifles and other articles are nowhere else treated as fire arms. Even though they pass through a particular thickness, five cardboards, from a near range, they are not treated as firearms, and therefore I would request the Government to think of allowing air guns, air rifles, air pistols and air revolvers free of licence. That will also give our children an opportunity to learn precision shooting.

Shri D. C. Sharma (Gurdaspur): I think the whole of this clause needs to be revised, especially sub-clauses (c), (e) and (h) should undergo drastic revision.

I think the purpose of this clause is three-fold. In the first place this clause wants that people should not inflict grievous hurt upon others and there should be less of this kind of thing between individuals. The second purpose may be that people should not be able to make use of these arms in a case of riot or something like that. The third may be that people should not be able to make use of these arms or purchase these arms in the case of a civil war of a local kind. These are the three purposes.

Now I asked myself: are these purposes going to be served by this clause? I do not think so. It is because so far as murder is concerned, you can make use of domestic or agricultural implements or weapons. I am told by the lawyers who practise on the criminal side in the courts that it is mostly these things that are made use of.

So far as the use of arms is concerned, Government cannot prevent it, for the machinery of Government has failed so far to prevent the smuggling of arms. The more effort the Government is making these days, the greater is the smuggling and the illegal use of arms. Our country has so many borders and there is infiltration from so many places. In Rajasthan they get arms, even in the Amritsar border they get arms, God knows where they get them from. Therefore, so far as illegal possession of arms is concerned, the Government has not been able to stop the rot, and the Government can do nothing.

Then, so far as civil commotions are concerned, I think the Government has not been able to prevent them. For instance, I know of some cities where civil commotion has been on a very very great scale.

An hon Member Kanpur

Shri D C Sharma: I do not want to mention names. Government has not been able to prevent that. The whole apparatus of the CID which our Government has, the whole apparatus of the Police which our Government has was not able to know how the people were preparing themselves for a showdown with the Government. It is a very sad commentary on the Government.

Therefore, I think that the Arms Act which we are going to pass is not going to be a deterrent for smugglers, for the rioters, for those who are going to create civil commotion. It is only going to be a deterrent for those honest persons who want arms in order that they may defend themselves in a time of emergency.

This is the approach which has been taken in this whole clause. I think this approach must be modified, and the only way of modifying this approach is this, that lines 15 to 21 should go, they should go lock, stock and barrel, because in the first place this clause leaves too much discretion to the police, to the magistrate, to the trying authority, to the licensing authority. It deprives the citizen

of a weapon, but it gives the magistracy and the police a weapon which they can command at any time. Therefore, it will be an unequal distribution between the authorities on the one side and the civil population on the other. Therefore, I think this clause should go.

At the same time, I think it is not possible to tabulate all the weapons and firearms that are there. Does the Government of India think that because no new arms are being produced in this country, no new arms will be produced in other countries and does the Government of India think that those arms will not be brought to this country? Therefore, I think that only one thing should be done. Arms means articles which are designed for or adapted for attack in a riot or in a civil commotion. That should be the only definition given and all the other qualifying clauses should be done away with. That is because we want to safeguard as has been said by the hon Minister, the public safety and the public peace of this country, and for that purpose all these things should go. The result of this clause will be that it will lead to endless wrangles in law courts as to whether a weapon is solely or mainly or partly or generally meant for agricultural or domestic purposes. I think all these qualifying clauses are going to have an effect which is not intended by the Minister. Therefore, I think the definition of firearms and prohibited ammunition should be reworded, and I believe that the definition that arms are those conventional weapons which are used by the Army should alone be given, and nothing else should be given.

The hon Minister has talked of tanks, torpedoes, this and that as if he thinks the people of India have all the various kinds of weapons. In fact, he has given a hint to them: there are torpedoes, there are submarines, there are all these things also. My feeling is that this whole clause should be reworded.

[Shri D. C. Sharma]

to indicate that arms are only those which are used by the Army in their formations when they are attacking somebody I think this should be the intention before us so that the persons who want to have these arms for defence should not be debarred from the privilege of having them.

Dr. M. S. Aney (Nagpur) May I ask a question?

Mr Deputy-Speaker: I would be coming to the hon Member

Dr M. S. Aney: Are we discussing any particular clause or are we carrying on with the amendments and only those who have amendments to move are allowed to speak?

Mr. Deputy-Speaker: Amendments as well as clause 2

श्री बजरत्न सिंह उपाध्यक्ष महोदय, मैं क्लॉज २ की सब-क्लॉज (सी) का विरोध करने के लिए खड़ा हुआ हूँ और श्री सिंहासन सिंह जी ने तथा दूसरे मित्रों ने जो इसको हटाने के लिए मशौघन दिया है उसका मैं समर्थन करता हूँ।

इस धार्य्म एक्ट की पूरी स्कीम में ही कुछ ऐसा पता चलता है कि सरकारी पार्टों की भूतकान की जो घोषणायें थी, उन में वह दूर हटती जा रही है, उनमें बिल्कुल उलटी बह जा पडी है। मैं समझता हूँ कि राज्यों की पुलिस पर उसकी विश्वास भास्या हो गई है, इस वास्ते जो भी राय पुलिस अफसरों द्वारा दी जानी है, उनी को आघार मान कर कानून बनाये जाते हैं और यह बात विशेष रूप से इस कानून पर लागू होती है। यह बात इसी से स्पष्ट हो जाती है कि पहले के कानून में जो परिभाषा धार्य्म की थी उससे बिल परिभाषा इसमें कर दी गई है और जो-जो बातें पहली परिभाषा में नहीं थीं उनको इसमें शामिल कर लिया गया

है। जैसा कि दूसरे मित्रों ने कहा है कि डैडली वैपस की यदि आप इसमें फिर से परिभाषा नहीं करते हैं तो उसमें लाठी भी आ जायगी और वह भी गैर कानूनी हो जायगी। हमारा मुल्क बैलगाडी का मुल्क है, उनी तरह से लोग लाठी ले कर बाहर जाते हैं और अब इसके बाद वे लाठी लेकर भी नहीं जा सकेंगे। इसका क्या नतीजा होगा, इस पर विचार होना चाहिए।

आगे चल कर क्लॉज २० जो इस बिल की है उसमें कहा गया है कि

"Where any person is found carrying or conveying any arms or ammunition whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are or is being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any magistrate, any police officer or any other public servant or any person employed or working upon a railway, aircraft "

बिना वारेट के उस गिरफ्तार किया जा सकता है। मान लीजिये कि कोई लाठी ले कर जा रहा है और किसी पुलिस अफसर से और पुलिस अफसर न सही किसी नेबपाल में उत्तर प्रदेश में, या दूसरी स्टेट्स में किसी रवेन्यू अफसर में जो कि गांव में रहता है उसकी रजिस्ट्र है और वह उसको किमी तरह से नहीं फसा सकता है तो इसके अर्धिन वह उसको बिना वारेट पकड लेगा, पकड कर परेशान कर सकेगा जोकि बहुत गलत बात होगी।

मैं समझता हूँ कि हमेशा ही हमारा कानून इस तरह का बनना चाहिए जिससे कि जो हमारा उद्देश्य है वह तो स्पष्ट हो जाए, वह तो पूरा हो जाए। इस में आप पुलिस अफसर को ही नहीं बल्कि दूसरे जो अफसर भी हैं, जो पब्लिक सर्वेंट्स हैं फिन में

कि आप नए नए पब्लिक सर्वेंट्स जोड़ते जा रहे हैं, उनको भी बहुत ज्यादा ताकत दे रहे हैं ताकि उसको जोकि लाठी भी ले जा रहा है, पकड़ा जा सके। मैं निवेदन करना चाहता हूँ कि आप इस तरह का कानून बनाने की कोशिश न करें जिससे कि आजाद होने से पहले हिन्दुस्तान के कुछ भागों में जो सङ्गलियतें मिली हुई थी वे भी खत्म हो जाएँ। हिन्दुस्तान की बहुत सी देशी रियासतों में जब तक वे हिन्दुस्तान में विलीन नहीं हुई थी हिन्दी और उर्दू में अदालतों में काम चलता था लेकिन अब उनको जबर्जस्ती अंग्रेजी में काम करना पड़ता है और इसी तरह से चन्द रियासतों में कोई इस तरह के कानून थे कि वहाँ पर आम तौर से लोग हथियार ले कर जा सकते थे, उन पर भी यह बात लागू कर दी जाए कि वहाँ के लोग अब लाठी भी ले कर नहीं जा सकते हैं, ठीक नहीं है। अगर कोई लाठी लेकर के वहाँ चलेगा उसको पुलिस अफसर या दूसरा कोई रेवेन्यू अफसर या कोई दूसरा पब्लिक सर्वेंट गिरफ्तार कर सकता है। मेहरबानी करके ऐसा कानून आप न बनायें जिस से जनता को यह भ्रम पड़े कि आजाद होने के बाद भी उनको पीछे की ओर धकेला जा रहा है।

इस कानून के द्वारा आप उन राज्यों में जहाँ पहले कोई लाइसेंस की व्यवस्था नहीं थी, इस व्यवस्था को लागू कर रहे हैं और लाठी इत्यादि ले जाने पर भी रोक लगा रहे हैं। आप की यह घोषणा तो दूर रही कि आजाद होने पर किसी तरह के भी लाइसेंस लेने की जरूरत नहीं रहेगी आप तो और भी कई तरह की रेस्ट्रिक्शंस लगाने जा रहे हैं। अच्छा होता आप उन घोषणा पर अमल करते और कहते कि आम तौर पर जो चाहेगा उसको फायर आर्म्स या हथियार रखने का अधिकार होगा। लेकिन यदि आप यह नहीं कर सकते हैं तो ऐसी बात तो न कीजिये जिसमें कि पचासी दिक्कतें पैदा

आये। इस कानून के सम्बन्ध में मैं कहता हूँ कि अगर आप इसको हटा नहीं सकते हैं तो कम से कम इसमें संशोधन तो करें। डेबली बैपस शब्द में कोई भी चीज आ सकती है और उस चीज की निगाह पर किसी भी आदमी की प्रतिष्ठा को चाहे जब खत्म किया जा सकता है।

आप जानते ही हैं कि हिन्दुस्तान में कई राज्य हैं जो कि डकैतों से घिरे हुए हैं। वहाँ लाइसेंस नहीं मिलते हैं और लोग लाठी से ही अपना काम चलाते हैं। उत्तर प्रदेश, मध्य प्रदेश, राजस्थान आदि ऐसे राज्य हैं कि जहाँ पर दिन दहाड़े डकैतियाँ पड़ जाती हैं, लोगों को मार दिया जाता है, पुलिस वालों की हत्या कर दी जाती है और वहाँ पर भी अगर यह कानून लागू होता है तो यह खतरनाक होगा। आजकल जिस तरह से पुलिस वाले लोगों को फसाना चाहते हैं उसका एक तरीका है। दफा १६ जो वर्तमान कानून की है उसके मातहत चालान करने के लिए पुलिस वालों को पिस्तौल ले जा कर के अपनी तरफ से रखनी पड़ती है और तब उसको फसा लिया जाता है। मैं आपको बतलाना चाहता हूँ कि उत्तर प्रदेश के उन हिस्सों में तथा राजस्थान के और मध्य प्रदेश के उन हिस्सों में जहाँ पर दफा १६ के किसिम चल रहे हैं, अगर आप जांच पड़ताल करें तो पता चलेगा कि ६६ प्रतिशत किसिम में पुलिस की तरफ से पिस्तौल ले जा कर के, जो कि गाव की बनी हुई थी रखी गई और दफा १६ में चालान किया गया और लोगों को सजा हुई. . .

श्री सुशबल राय (खेरी) मालखाने में ऐसे पिस्तौल रखे रहते हैं।

श्री अशरफ सिंह यह बात ठीक है। लेकिन अब तो कोई लाठी ले जा रहा ही तो उसे भी पकड़ा जा सकेगा और बाकी कायबाई कर ली जायेगी।

[श्री बजराम सिंह]

मैं निवेदन करना चाहता हूँ कि इस सब पर पुनर्विचार हो और कम से कम ऐसा तो हो जिस में लोगों को यह दिखाई न दे कि आज की पार्लियामेंट पीछे की ओर हट रही है जबकि दुनिया आगे की ओर बढ़ रही है। मैं आशा करता हूँ कि गृह मंत्री महोदय इस स्टेज पर भी इस पर पुनर्विचार करेंगे और ऐसा नहीं समझ लेंगे कि हिन्दुस्तान की सारी की सारी अक्ल पुलिस के पास चली गई है और दूसरों के पास अक्ल नहीं रह गई है। ऐसा भी सोचें कि थोड़ी बहुत अक्ल हम लोगों में भी है और हम से ज्यादा अक्ल शायद उम पार्टी में है जिसका बहुमत है। आई० जी० की रिपोर्ट हमेशा सही नहीं होती है, उसकी रिपोर्ट गलत भी हो सकती है। इस बात को अगर आप मान लें और अपने दृष्टिकोण में परिवर्तन करें तब कुछ हो सकता है अन्यथा नहीं।

Dr. M. S. Aney: I have only to make a few observations on the definition of the word 'arms'

Mr. Deputy-Speaker: I would request all hon. Members now to confine their remarks to as short a time as possible, because we have to conclude the whole thing by three o'clock.

Dr. M. S. Aney: I am very glad that you have made this suggestion

Mr. Deputy-Speaker: It was not meant particularly for the hon. Member

Dr. M. S. Aney: In my opinion, it is a very useful suggestion, because the debate has to be ended at a particular time, and the work has to be done also.

I only want to invite the attention of the House to the definition of the word 'arms'. If we were to have an Arms Act without a proper definition of the word 'arms' then really it will have no meaning at all. As has been

pointed out rightly by many of my hon. friends already, the definition as it is given here in clause 2(c) is an extremely wide one. One does not know exactly whether those who have framed this clause themselves have any idea as to what the thing is which they call as 'arms'.

The definition reads thus:

"arms' means articles of any description . . ."

And the qualification is

"designed or adapted as weapons for offence or defence"

This is the definition of 'arms' which has been given here. The definition is 'articles of any description, designed or adapted as weapons for offence or defence'. Anything in this world can be used as a weapon of offence or defence, in accordance with the circumstances in which a man finds himself. Even a stone can become a weapon of offence or defence, a man can take up a stone and throw it at another man. That also becomes a thing adapted for the time being as a weapon of offence or defence.

The point here is that the language which is used here does not exactly convey to us the idea of the weapon which the framers of the Bill have in their mind. And so long as these points are not properly cleared, it would be difficult for us to know exactly what this word means; or to extend the power in respect of other arms, as is proposed in clauses 3, 4 and 5. For instance, in clause 3, they want to confine the grant of licence only to fire-arms. But when we come to clause 4, and clause 5, we find that power is given to the authorities to impose a restriction on licences in respect of other arms also. What those other arms will be is a matter for the authorities to select or describe at that time. So the persons against whom this Act is going to be

used are always kept in the dark as to what are the things which can be kept without licence and what are the weapons the possession of which will be regulated by licence. An Act of this kind is rather of an indeterminate nature, while a law which intends to restrict the use of a thing by means of a licence must always specify the scope within which that restriction has to be imposed. When you extend the use of a thing, it is all right. Anybody can use it. But when you take away a thing, you must exactly know what is the thing that you want to take away and what is the thing that you are allowing to be retained with the people. From this point of view, the definition clause, clause 3, requires to be very seriously considered.

As for myself, I would like to make a small suggestion. Though I do not claim it to be perfect I have to say that I have read the Report of the Joint Committee and have found that it does not throw much light or help us to come to a proper definition of 'arms'. In the definition as given in the Bill, it is said:

"'arms' means articles of any description designed or adapted as weapons for offence or defence"

My suggestion is to put it like this

"'arms' means weapons "

—at least the meaning of the word 'weapons' should be precisely understood—

"of any description used for offence or defence or intended to be used by the police or the army "

This clearly indicates as to what are the things which Government have in mind in describing weapons when weapons are taken as arms for the purpose of this Act. If there is some clause like that—a restriction of this nature—in which the general idea of the Government about the term 'arms' can be easily understood by the

people, then you shall make the administration of this Act an easy one, and even a salutary one. But in the absence of that, as has been pointed out by some of my hon. friends, it can be a source of harassment in the hands of the executive officials, the police officials. In times of difficulty or emergency, sometimes even an ordinary stick that I carry in my hand may be a thing which cannot be carried without a licence. It may come to that even. This may ultimately develop into inconvenience and a source of serious harassment. So an attempt should be made to define the word 'arms' precisely.

I do not know whether this will be a source of delay. Perhaps the hon. Minister might take time to consider this particular point and then proceed with the rest of the amendments which have been moved thereon.

I do not want to take more time. Your suggestion was a valuable one and I think I should act up to it. I only wanted to make these remarks with a view to invite the attention of the Minister to the ambiguous and somewhat extra-extensive nature of the definition of 'arms' which forms the most vital part of this legislation.

श्री राधा रमण उपाध्यक्ष महोदय,
अभी सदन के मायने कई मित्रों ने इस बिल
के डिफिनेशन के बारे में अपने विचार
रखे हैं। मैं स्वयं यह महसूस करता हूँ कि
इस बिल में जो यह बिल बनाया गया है,
उस में बहुत सारी त्रुटियाँ हैं। विशेषकर सब
बिलों में के बारे में इतना कुछ यहाँ कहा
जा चुका है मगर फिर भी बहुत कुछ कहा
जा सकता है। जैसा इस का बनाया गया
है और उस में जो मान निकाले जा सकते
हैं वह सब ऐसे हैं जो कि बिल के सारे मतलब
को खत्म कर देते हैं। मैं ने अपना मसौदा
सदन के सामने रखा है न० ११५। उस में
मैंने यही सिफारिश की है और मैं मंत्री
महोदय में प्रार्थना करूँगा कि वे इस पर
पुन विचार करें मभा के अन्दर भी इस पर
विचार रखेंगे हैं कि यह सबबिलों से

[श्री राधा रमण]

सारे का सारा इस तरह बनाया गया है, इसकी शब्दावली ऐसी है, कि अगर इन शब्दों को रद्द कर वह बिल पास किया गया तो इस बिल को खाने का जो हमारा मकसद था वह सब का सब खत्म हो जायेगा। केवल यह कह देना कि हम बहुत सारे उद्द लोगो को सजा देना चाहते हैं यह ठीक नहीं है। आज आप के सामने यह खयाल हो सकता है कि देश में बहुत सारे ऐन्टी सोशल एलिमेंट्स हैं जो कि इन हथियारों को अपने हाथ में रख कर गैर-जिब फायदा उठा सकते हैं, अगर ऐसे लोगों को रोकने के लिए कोई भी क़ानून ब्रह्म ज्यादा मदद नहीं करता। ऐसे लोग तो अपने लिए कोई न कोई मायन निकाल ही लें हैं। अब आप यह कहते हैं कि आर्म का मतलब कोई चापें एण्ड वेपन भी हो सकता है, तो आप ने उस की सीमा इतनी बढ़ा दी कि कोई पत्थर मार दे मेन्फ डिफेन्स में कुर्मी उठा कर मार दे कोई सुराही रखी हो उसे उठा कर मार दे, अब इसकी हद में आ जाना है। इस लिए मैं यह विनम्र प्रार्थना करूंगा कि मंत्री महोदय इस पर विचार करें। काफी लोगों के विचार उन्होंने सुन लिए हैं और करीब करीब पूरा मदन इस बात पर पूर्वनिश्चय है कि जो व्याख्या आप ने रखी है जो शब्दावली आप ने मंत्रालय की में रखी है उस शब्दावली के साथ अगर आप बिल पास करेंगे तो उस का परिणाम ब्रह्म होगा जो न आप चाहते हैं, न यह मदन चाहता है और हम उम्मीद करते हैं कि जनता भी नहीं चाहती है। हम वहाँ से कहते चले आये हैं कि हम आर्म बिल को अमेंड करेंगे। अब भारत देश आजाद हो गया है और लोगों को बिना लाइसेंस हथियार मिलेंगे। लेकिन लाइसेंस का रद्द करना तो दूर रहा, जो पुरानी व्याख्या थी हम ने उस में भी ज्यादा सीमाबद्ध हम व्याख्या को कर दिया। हमने हमने ऐसी शब्दावली डाल दी कि हुकूमत के कारिन्दे जिस किसी को जब चाहे फंसा सकते हैं।

मैं यह नहीं कहता कि हुकूमत के कारिन्दे लोगों को फंसाने के लिए ही बने हैं, मैं तो उनसे यही अपेक्षा करता हूँ कि वे खुद बुद्धि से काम करेंगे, लेकिन आप को मानना पड़ेगा कि किसी भी हुकूमत के कारिन्दों में सब के सब अच्छे नहीं होते। ऐसे भी हो सकते हैं कि जो आप इसी 'ट' लोगों को तकलीफ देने का खयाल भी रख सकते हैं। इस अवसर पर अगर हम में अन्य सुधार नहीं हो सकते और मंत्री महोदय सब बातों को मजूर करने के लिए तैयार नहीं हैं तो कम से कम उन को एक काम जरूर कर देना चाहिए। उम्र के अन्दर एक ऐसा सेटपुट जरूर लगा दें जिस में वे चीज दी हुई हो जिन्को सामने रख कर पुलिस वगैर किसी भी व्यक्ति को अनायास फंसा ना सके। वे लोग जनता के आदमियों को न फंसाने पायें। अगर हम की शब्दावली को इस प्रकार दुर्लभ किया जा सकता है तो यह जरूर किया जाना चाहिए।

इस के बाद इस में 'अदर फार्म ऑफ एनर्जी' के बारे में भी लिखा हुआ है। यह एक बहुत वाइड सेन्स हो जाता है। अभी मेरा मित्र पटनायक माहब ने एग्जर गइफुल्ल के बारे में कहा। एक तरफ हम चाहते हैं कि हर एक नौजवान को राइफल ट्रेनिंग दें। हमारी सीमाओं के ऊपर आज जो हालत बन रही है उस सब के कारण हमारी यह प्रवृत्ति बन रही है कि हम हर एक नौजवान को डिफेन्स के लिये तैयार करें। जहाँ डिफेन्स के लिए तैयारी करने की प्रवृत्ति बनती है उस के साथ साथ हर एक आदमी अपनी रक्षा की भावना के मानहून हथियार रखना चाहता है। उस को रक कर वह सिर्फ उस मौके पर उस को इस्तेमाल करना चाहता है जो कि कभी भी उसके सामने आ सकता है। यानी अपने बचाव के लिए वह कोशिश करना चाहता है। उस पर भी हम प्रतिबन्ध लगाते हैं। इस लिये मैं समझता हूँ कि जिस

प्रवृत्ति को लेकर हम बिल को सामने लाये हैं वह भागे नहीं बढ़ पायेगी और उस में हथार किस्म की रक़ाबट आयेगी।

इस विषय में काफी कहा जा चुका है, इस लिए ज्यादा न कह कर मैं मंत्री महोदय से विनम्र प्रार्थना करना चाहता हूँ कि वे इन बातों पर ठीक से विचार करे। अगर इस सब क्लॉज भी को ही नहीं बल्कि सारे के सारे क्लॉज २ को अगर रिवाइज़ किया जा सके और उस की शब्दावली को ऐसा बनाया जा सके जिस में कि आर्म्स का सही मतलब निकल सके, तो इसमें अच्छी कोई बात नहीं हो सकती। जिस हथियार के जरिये एक इमान को तकनीक पहुँचाई जा सकती है और जिस का गलत इस्तेमाल किसी के खिलाफ किया जा सकता है, वह बिल्कुल स्पष्ट हो जाये, और पुलिस के अधिकारियों को यह कहने का मौका न मिले कि कानून के अन्दर गुजाइश थी और हम ने कानून का सही इस्तेमाल कर उस के मातहत कार्रवाई की है। अगर यह शब्दावली जिस तरह से अब है उसी तरह रही तो हमारे बहुत से शहरी लोगो को जो तकनीक अब देखने में आती है और पहले भी आती थी, वह भागे भी नहीं रहेगी। मैं यहीं कहना चाहता हूँ कि मंत्री महोदय इस शब्दावली को मजूर न करे और जिस प्रकार से इस शब्दावली की मूठि की गई है उस को ठीक कर दिया जाये। अगर हम इस बिल के मकसद को हासिल करना चाहते हैं, जो नतीजे हम मोच रहे हैं उन को हासिल करना चाहते हैं तो ऐसा करना बहुत जरूरी है।

14 hrs.

श्री मोहन स्वामी उपाध्यक्ष महोदय, जैसा श्री दोस्तों ने कहा, आर्म्स की और ज्यादा बाज़ह तारीफ़ होनी चाहिए। इसे मान लीजिये कि गांधी की लाइफ़ के लिए यह बहुत जरूरी चीज़ है। अगर लाठी के भांड की जियेरी में कोई गुजारा नहीं कर

सकता। हर बत्त इस की जरूरत आती है। इसके साथ साथ और भी बहुत से छोटे छोटे हथियार हैं जिन के बिना काम चलना मुश्किल है। मान लीजिये कि अगर कोई साँप निकल आये या कोई और चीज़ निकल आये और उस का मुकाबला करने के लिए अगर कोई लाठी में बल्लब लगा ले तो आप का क्या नुकसान है? वह उस में अपना बीटा सा बचाव कर सकेगा। इसलिए मेरी गुजारिश है कि इस क्लॉज की ज्यादा बजाहूत होनी चाहिए। जैसा राधा रमण जी ने कहा इस क्लॉज के साथ एक शोर्टयूल या फ़हिरिस्त जरूर हो कि फला फला किस्म के हथियार जो हैं वह इस की तारीफ़ के बाहर हैं। अगर ऐसा नहीं होता तो एक छाटा सा बिल जो हमारे सामने है वह बेमानी चीज़ हो जायेगा और जैसा कि मिनिस्टर साहब ने कहा कि इसको बहुत लिबलाइज कर दिया जायेगा, वह मकसद पूरा नहीं हो पायेगा। मैं मंत्री महोदय से निवेदन करूंगा कि वह बहुत हमदर्दी से इस पर गौर करे बहुत मीरियसली गौर करे और ऐसी तारीफ़ इसमें रखें जिन से कि बिल का मकसद ही ख़त्म न हो जाये।

Shri Datar: Mr Deputy-Speaker, I have heard with great attention the earnest appeal made by a number of hon friends (An Hon Member The whole House) Let the hon Members wait I am especially referring to the earnest appeal made by my elderly friend, Shri Aney and my friend Shri Radha Raman There are certain conceptions in their minds so far as the definition as also the purport of this particular clause is concerned They want to omit sub-clause (c) altogether Some hon friends have suggested that at least the words 'solely' or similar other expressions should be deleted from this clause

I may point out to them that the purpose of the definition of arms is of a limited nature I have already made it clear that the Arms Act does

[Shri Datar]

not deal generally with the arms, except the fire arms. Only in grave emergencies that comes in. Only then the operation of this Bill would take that into question. So, let this be understood clearly. Clause 4 points out that when there is any emergency or grave circumstances, naturally other arms also have to be duly regulated. It does not mean that a licence has to be taken by persons who desire to possess arms; it is not applicable for all arms and for all times. Normally all the other arms are exempted. In a particular emergency or when there are exceptional circumstances—only then—arms other than fire arms will be regulated. If this is fully noted by my hon. friends, all their objections will surely disappear. All arms are not necessarily to be the objects of licence except under grave circumstances.

Shri U. C. Patnaik: What about clause 27 and clause 29?

It reads:

"Whoever is in possession of arms and ammunitions "

Shri Braj Raj Singh: There is no exception to clause 20.

Shri Datar: Let the hon. Member read it. Shri Patnaik suggested that the various categories of arms should be specified and we agreed to that suggestion by amending clause 4 by stating that whenever any action has to be taken under clause (4), the particular weapons or arms in respect of which there is going to be a regulation about its use will be duly specified in the notification. Therefore, his purpose will be fully served by what we have accepted in clause (4).

Mr. Deputy-Speaker: Perhaps these doubts have not been dispelled. I would request the hon. Minister to just make it clear. The hon. Members have expressed their doubts whether clause 27 would be subject to the control of clause 4.

Shri Braj Raj Singh: Clause 20 also.

Mr. Deputy-Speaker: We may take any one. I am taking only one as it was referred by Shri Patnaik.

Shri Hem Raj (Kangra): Clause 5 also.

Mr. Deputy-Speaker: We are taking this only as an illustration. Now, clause 27 is there. Will this be subject to the control that is to be exercised under clause (4) when there is an emergency? Or is clause 27 independent?

Shri Datar: Clause 27 is independent of clause 4. I shall explain it, Sir. Clause 4 is the most important clause in this respect. So far as the other clauses, including clause 27, are concerned, I should read them to make the whole position clear.

"Whoever has in his possession any arms or ammunition with intention to use the same for any unlawful purpose "

A man is entitled to have arms normally. But if he is going to use it or his intention is to use it for unlawful purposes, it will constitute an offence. There is no dispute about it.

Mr. Deputy-Speaker: In that case this would also be covered.

Shri Datar: I am coming to that point. Ordinarily this definition comes into operation when clause (4) has to be used. It is also our desire that arms should not be used for any unlawful purpose. I have stated that there is no dispute about this... .. (Interruptions)

Shri Braj Raj Singh: There is section 323 of the IPC.

Shri Datar: Let the hon. Members wait. After I have finished, if there is any question, I am prepared to explain. I have also stated that it is not necessary to enumerate in the definition of the word 'arms' all the different categories of arms because

that comes into operation when action is taken by notification under clause (4). This definition itself has to be understood very clearly. Everything is not necessarily an arm and would not come even under clause (4) or the other clauses. For this purpose, I shall read it.

“arms’ means articles of any description designed or adapted as weapons for offence or defence.....”.

“Adapted” means that the instrument was in a particular condition and certain adjustments were made to use it as a weapon for offence or defence. Therefore, what is most important in this connection is not actually the use but the instrument must have been designed or adapted for the purpose of using it as a weapon of offence or defence.

Shri P. R. Patel: What about an axe?

Shri Datar: Take an axe, for example, used by the agriculturists. Take, for example, a stick or a sickle. These are not designed as weapons of offence or defence, though it is equally true that under certain circumstances they might be used. Even though they are capable of being used so, they are not to be considered as arms. I would make that point clear. I referred to a stick or sickle used by agriculturists. All these are not designed for the particular purpose of being used as an instrument of offence or defence. That is not the case, for example, with a sword. A sword is designed to be used as a weapon for offence or defence. In certain cases some instruments may be adapted to be used as weapons for offence or defence. That is why we have put in the words “designed or adapted”. (*Interruption*).

Mr. Deputy-Speaker: Order, order. We ought to first make ourselves clear. There ought not to be so much of impatience.

Shri Datar: I may point out, Sir, that in certain cases, in the case of a stick, for example, a stick can be so adjusted as to make it a weapon for offence or defence. I know that in certain parts of Maharashtra a particular stick has certain additions made to it; it is called *Gupti* in Marathi. In that case it is not merely a stick but it is a stick which has been so adjusted or adapted so as to make it capable of being used as a weapon for offence or defence.

Mr. Deputy-Speaker: It would not be a simple lathi then, it would be a different thing.

Shri Datar: That is the reason why the word “adapted” has been put in. Originally that stick was inoffensive, it was not meant to be used as a weapon for offence or defence, but certain changes were made in the structure and then it became by adaptation a weapon for offence or defence. I would, therefore, submit that this House should kindly take into account the words “designed or adapted”. “Adapted” means certain changes or certain adjustments made in the instrument. Therefore, as I said, what is most important is not the use of all these things.

Mr. Deputy-Speaker: The other question that has come up is whether these words “designed or adapted” also qualify “other deadly weapons”.

Shri Datar: It is said here “designed or adapted as weapons for offence or defence, and includes”. Naturally, when certain things have been included it means that they have been designed or adapted for offence or defence.

Mr. Deputy-Speaker: I only wanted to know whether this phrase “designed or adapted” also qualifies “other deadly weapons”.

Shri Datar: Naturally, Sir; it will have to. First it has been said “designed or adapted as weapons of offence or defence”. Then an inclu-

[Shri Datar]

sive definition has been given. That means they are also arms, fire-arms as also ordinary arms; there is no dispute about it.

Mr. Deputy-Speaker: My impression was that this would be independent and the expression "and includes" has been brought in simply to explain that these things are not outside the scope of the Bill and it cannot be said that they have not been designed or adapted as weapons for offence or defence.

Shri Datar: That is your interpretation, Sir, for which I am thankful to you. But I would suggest, alternatively, that even in the case of fire-arms, sharp-edged and other deadly weapons the point is that they are designed as weapons.

Mr. Deputy-Speaker: The gravest fear that has been expressed here by three or four hon. Members is about the lathi. What would happen to the ordinary lathi that is carried by a peasant? He requires it at every moment, every occasion, whenever he goes to his field. If the policeman feels that it is a deadly weapon and it can be used as a weapon for offence or defence, what would be the position of that poor peasant?

Shri Datar: The word "lathi" is not there.

Mr. Deputy-Speaker: Who would decide it is it the court or the police officer? Lathi has been particularly excluded by some of the States in their rules. We are now making a comprehensive law.

Shri Datar: Is it your suggestion that "lathi" should be excluded—lathi in its original form, not in the adjusted form?

Mr. Deputy-Speaker: I am not asking about the lathi which has been changed to make it a deadly weapon for offence. That would not be lathi; that may be *Gupti* or any other thing

but that would not be lathi. If something is concealed inside—*Gupti* means that some sharp weapon has been concealed or put over it—it would become a different weapon altogether, it would not be a lathi.

Shri Datar: That would come under the expression "adapted".

A Simple harmless instrument like lathi.

Shri R. D. Misra (Bulandshahr): It is not harmless.

Shri Datar: It is generally harmless.

Shri R. D. Misra: You can kill any man with it.

Shri Datar: What I was submitting to the House was that there are certain instruments that are used for domestic or agricultural purposes and if they are designed solely for domestic or agricultural uses they are excluded altogether.

Pandit Thakur Das Bhargava: May I ask, Sir, if lathi is not designed to be a weapon? Lathi is a weapon, whether it is designed so or not.

Shri Datar: Is it the desire of the House that the word "lathi" should be specifically mentioned?

Mr. Deputy-Speaker: It is not the desire of the House that the word "lathi" should be specifically mentioned, but hon. Members have a fear that even a lathi could be included in the phraseology that is being used. What would happen to the poor peasant then?

Shri Datar: For that purpose Sir, I would invite your attention to the fact that the word "designed" has been used twice. It is said: "designed solely for domestic or agricultural use". A lathi is used for domestic purposes only. The word "solely" is essential.

Shri Braj Raj Singh: As a matter of fact, you are forcing an interpretation of your own on this House

Shri Datar: I am not forcing any interpretation; I am only placing the natural interpretation

Mr. Deputy-Speaker: When the hon Minister is speaking he has to give his own interpretation. It is for the hon Members to say whether that interpretation can be accepted or not, but he has to give his interpretation, not my interpretation or any other hon Member's interpretation

Shri Datar: Therefore, Sir, I was pointing out that whatever mischief fear or evil was thought of has been purposely removed by the use of the word "designed" twice. It is used in connection with domestic or agricultural uses. I would repeat that a lathi or a sickle or any other instrument which is ordinarily used for domestic or agricultural uses

Mr. Deputy-Speaker: The word "solely" is only used in the later stage when something is to be excluded and not in the first instance

Shri Datar: I was explaining that very point. Take, for instance, a knife or a sword. So far as knife is concerned a knife has been designed solely for the purpose of domestic or agricultural use. A sword is not so used, though in certain cases, people say that warriors, with their warrior-like feeling, may also use a sword for domestic purposes for cutting, etc. That is the reason why "solely" has been used. The word "solely" has been purposely used. What is the sole object? Of course, incidentally, it may be used for other purposes also. I do not mind it, because I know cases where even lathis were used for murdering people, but that is not the object

Mr. Deputy-Speaker: I would go so far as to say that a larger number of murders are committed by lathis than by any other weapon

Shri Datar: I would agree

Mr. Deputy-Speaker: Where you exclude this and say "but does not include articles designed solely for domestic or agricultural use, and weapons incapable of being used otherwise than," etc it would not include a lathi. A lathi would not be excluded in that also, and further, there is a fear, and I think it is a genuine one in the minds of hon Members

Shri Datar: The word 'solely' has been used purposely. Take the word 'lathi'. A lathi is to be solely used for domestic purposes. There is no dispute about it. Incidentally it might be abused. Therefore, I wish to submit that if the word "solely" is removed it will lead to certain undesirable results

Then I would invite the attention of hon Members to the expression "designed". What is the design behind it? That has to be taken into account. Not merely it is used but possibly it is abused. Therefore if the word "designed" is fully taken into account then all the misgivings that hon Members have will have been completely removed. Therefore, I pointed out that the word "solely" has been purposely put in because in such cases a lathi cannot be designed except for agricultural and domestic purposes to be used for other purposes

Shri Mulchand Dube (Farrukhabad): The definition is

"arms' means articles of any description designed or adapted as weapons" etc

Shri Datar: So there is no question of accepting any amendment

Some Hon. Members rose—

Mr. Deputy-Speaker: Hon Members have spoken in their turn. It is the hon Minister's turn now. When it comes to the question of vote, hon Members may exercise their right

Shri Braj Raj Singh: Let us be allowed to have a clarification on this point.

Mr. Deputy-Speaker: Now, a lathi is not designed solely for domestic purposes.

Shri Datar: I would put it in another way. While accepting the purport of what you said, I would say that though the lathi is designed solely for domestic or agricultural purposes oftentimes it is abused for other purposes. Therefore, I should say that in a number of murders and other offences, these ordinary domestic instruments are abused. There is no doubt about it.

Mr. Deputy-Speaker: The hand is intended to serve but it is used to strike others also. But you cannot say that it is abused.

Shri Datar: If, for example, with the help of a lathi a man is killed—and persons are killed and murdered in a number of cases—then, naturally, it is an abuse of the lathi. The lathi is meant for domestic or agricultural use.

Mr. Deputy-Speaker: When one wants to commit a murder, should he lay aside the lathi because it is an abuse of the lathi and use it for some other purpose?

Shri Datar: That is the reason why we allow him to use it, but he should take the consequences.

Shri Tyagi (Dehra Dun): When there is a question of any offence or crime, he should not address the Chair like that. Then you take the consequences!

Mr. Deputy-Speaker: He was addressing, at that time, the hon. Shri Tyagi!

Shri Datar: So, in all such cases, without further repeating the same point, I may make it clear that the object or the design for which a

particular instrument has been prepared has to be taken into account. The word has been used twice, once in connection with the complete exemption, because they are for domestic or agricultural purposes, and again in connection with the ordinary preparation of ordinary weapons.

Here also, I may point out that my friend has suggested that the word "defence" should be omitted. I would point out to him that arms are used for offence and defence also. Even a thief or a robber may use them for defence. It might be for defence but still it would be an arm. Therefore, the definition of "arms" would be incomplete unless we say that an arm is a weapon both of offence and defence. Therefore, I would submit that it is not possible to accept either the complete abolition of sub-clause (c) or any other changes that hon. Members have suggested.

My friend Shri Patnaik's objection has been met by me by pointing out that we are going to specify the specific arms which are likely to be abused in any emergency and in any prescribed area. There, the particular arms, not the arms for domestic or agricultural use but only such other arms which come under the definition of sub-clause (c), will be specified and categorised when a notification is issued. That ought to meet his particular point.

Mr. Deputy-Speaker: What about the air-gun?

Shri Datar: So far as the air-gun is concerned, I have found that all the air-guns are not necessarily innocent or harmless things as was pointed out. There are some air-rifles which are not so harmless as was observed. They have a very long range and accuracy of aim and hence have to be controlled. We are prepared to give licences. Oftentimes, it was pointed out.

Mr. Deputy-Speaker: Is the hon. Minister aware of the present law

about the air-guns? It is exempt in all States except Delhi. When a Central law is made, there should be

Shri Datar: Let us have a uniform law.

Shri Sinhasan Singh: Only some States have prohibition in regard to it. Others have all exempted it.

Shri Datar: Only air-guns satisfying certain tests are exempted under the Indian Arms rules. We are now considering the improvement of these particular tests. Necessary provisions will be made in this respect under the rules. I am not accepting the general categorical statement that all air-guns are harmless under all conditions. To the extent they are harmless they would be exempted. To the extent they require some control, licences will have to be taken.

Reference was made to other forms of energy. New forms of energy are coming into force. Some of them are highly destructive also and therefore it would be advisable to have this general inclusive definition of other forms of energy. I am sorry I cannot accept the amendments.

Shri Braj Raj Singh: It will affect the whole fabric of the law.

Mr. Deputy-Speaker: We have sufficiently discussed it and it would not become more clear now.

Shri Braj Raj Singh: The hon. Minister has some misconceptions in his mind. I want to make them clear.

Mr. Deputy-Speaker: If he has to answer all those points, then he might utilise some other occasion.

Shri Braj Raj Singh: I do not want to go into the whole thing. He just mentioned about the definition of arms and pointed out only the first two sentences which say—

“arms’ means articles of any description designed or adapt-

ed as weapons for offence or defence, and includes fire-arms,”

But the definition goes on to say

“sharpedged and other deadly weapons, ” etc

My submission is, all these words are not qualified by either “designed” or “adapted”

Mr. Deputy-Speaker: The Minister has pointed out the position and hold to his opinion. What further clarification does the hon. Member require? I pointed out to the Minister what hon. Members seem to think. The Minister has given his own reaction. What is to be done?

Pandit Thakur Das Bhargava: ‘Designed’ by whom? Is it by the seller or the user? This must be made clear.

Mr. Deputy-Speaker: By whomsoever has got the opportunity. Now.

Shri Khushwaqt Rai: About lathi. I want to put one question.

Mr. Deputy-Speaker: I shall have to put the amendments to the vote. The whole House is in possession of it and the House shall decide. No appeal is to be made to me. I am not going to decide myself.

Shri Sinhasan Singh: If the interpretation given by all those who have spoken and even by the Chair is not accepted by the Minister, the difficulty comes in at the time of voting. Is he going to give us free exercise of vote so that we may have the sense of the House?

Mr. Deputy-Speaker: Everybody is free to vote, I am not here to interfere with anybody's freedom to vote.

Shri Tyagi: In cases where the House is practically unanimous in the meaning of an amendment the change of words is simply considered to be

[Shri Tyagi]

consequential When the hon Minister agrees with the meaning of the amendment proposed, then the words do not matter (*Interruptions*).

Mr. Deputy-Speaker: What does the hon Member want me to do?

Shri Braj Raj Singh: We are all in your hands There is one interpretation put by the Home Minister and you have got another interpretation

Mr. Deputy-Speaker: When there are differences about interpretation, the House is the final master It might interpret as it likes

Shri Braj Raj Singh: About language, the House is not the master

Mr. Deputy-Speaker: It is left to the House. I cannot give a final decision Or, the courts will decide So far as phraseology is concerned, I cannot decide I have put my view to the Minister and to the House Now I have to put these amendments Any particular amendment to be put separately?

Shri U. C. Patnaik: No 14

Shri P. R. Patel: No 61

Pandit Thakur Das Bhargava: I want amendment Nos 78 to 82 to be put separately

Shri Sinhasan Singh: No 125

Mr. Deputy-Speaker: Nos 125 and 78 are the same as No 14 I will now put amendment No 14 to the House

Shri Tyagi: Before we proceed with the voting, may I suggest that the hon. Minister might at least clarify the meaning with regard to the lathi and other things separately?

Pandit Thakur Das Bhargava: Otherwise, we are in a dilemma. We want deadly weapons to be included but not the lathi. I would request the

hon Minister to exclude the lathi at least

Shri Datar: Out of consideration for the opinion of a number of hon. Members

Shri Braj Raj Singh: Why number? "All"

Shri Datar: I am moving an amendment like this:

"After the words 'solely for domestic and agricultural uses' the following shall be inserted, namely:

'Such as an ordinary walking stick or a lathi'"

Shri U. C. Patnaik: Even a knife

Some Hon Members: No

Shri Thirumala Rao (Kakinada): The difficulty will be in defining "an ordinary walking stick" It is hardly 3' in length, but in villages they are accustomed to using a longer stick

Shri Tyagi: In that case, the walking stick which the Home Minister uses is not ordinary

Shri Datar: It is ordinary to him

Mr. Deputy-Speaker: There is a difficulty If 'lathi' comes after 'an ordinary walking stick', the size of the lathi is also reduced

Shri Datar: When the word 'lathi' has been specifically mentioned, it means it is different from a mere walking stick

The Minister of Law (Shri A. K. Sen): The words 'an ordinary walking stick' are followed by the word 'or'.

Shri Datar: I am making a slight change I will say, "such as a lathi or an ordinary walking stick".

Pandit Thakur Das Bhargava: The previous words are.

"articles of any description designed or adapted as weapons for offence or defence"

I submit lathi will come there, lathi is used in most cases for offence, defence and murder also. Lathi will come under this description. Lathi is not solely for domestic use.

Shri Tyagi: To beat your wife!

Pandit Thakur Das Bhargava: When he is giving us a concession, let it be clear.

Mr. Deputy-Speaker: My view is this. When certain things are being exempted and one or two things are particularly mentioned, though they may not be covered by the strict definition of the exemptions, because they are specially mentioned, they are exempted.

Pandit Thakur Das Bhargava: The interpretation is dubious. Why not say clearly that lathi is exempted?

Shri Tyagi: How can lathi be put to domestic use?

Mr. Deputy Speaker: The hon. Member himself just now indicated a domestic use!

Shri U. C. Patnaik. By this new change it makes the position worse. Because, hitherto lathi was not mentioned either way for purposes of clauses 20 and 27. We were afraid that lathi, knife or whatever pleases the policeman will be brought in there. So, we wanted an assurance as to the items that you would like to bring under sub-clause (c). Instead of telling us and telling the country what are the items that Government would like to bring under sub-clause (c), the Minister says that lathi and walking stick will not come under sub-clause (c). That makes the position worse for others. What about pen knife and razor blades? Suppose you are travelling in a train and

Mr. Deputy-Speaker: Now the Minister has considered it. He wanted to examine it because there were many apprehensions and doubts. I also drew his attention to the fact that there was such a feeling on all sides of the House that at least lathi should not be there and it should not be left to the policemen to decide. Therefore, in deference to the wishes of the hon. Members, he has done it and perhaps by these words the lathi is excluded and there would be no harassment, so far as that is concerned. So far as other arms are concerned, he does not feel the necessity to change the definition. So, on this point of the amendment of Shri Patnaik, the Home Minister has exempted lathi from the provisions of sub-clause (c). Now I will put the amendment of Shri Patnaik to the vote.

Shri Sinhasan Singh: In view of the amendment proposed by the Home Minister, let that amendment be first put to the House and then the amendment of Shri Patnaik. That would be the proper thing.

Mr. Deputy-Speaker: All right. Let that be moved.

Shri Datar: I beg to move.

Page 2, line 19,—

After "domestic or agricultural uses" insert "such as a lathi or an ordinary walking stick"

An Hon. Member: No 'ordinary' (Interruptions)

Mr. Deputy-Speaker: Order, order. Is there any particular advantage in deleting "ordinary"?

The Minister of Finance (Shri Morarji Desai): Walking sticks are of various kinds, they are not ordinary sticks, guppts for instance.

Shri U. C. Patnaik: I would submit for your consideration that I had moved amendment No. 14 and that is

[Shri U C Patnaik]

for the deletion of sub-clause (c). Now the Minister has brought in a counter proposal, making it impossible to vote against him, because we cannot say that lathi is to be included, and this is an amendment of which he has not given notice before. He has now come up with an amendment to counteract the real amendment that is in the minds of everybody. We are all afraid that under clauses 20 and 27 the policemen will harass everybody and in spite of that, he has brought in an amendment to exclude lathi from the purview of sub-clause (c), and he has added something which is even worse—an ordinary walking stick is excluded from the purview of sub-clause (c). That is a deliberate attempt to side-track our decision.

Mr. Deputy-Speaker: I have followed him, and the House has also followed him.

Shri U. C. Patnaik: I would submit that amendment No 14 should be put first and then, if necessary, the amendment by the hon Minister.

Pandit Thakur Das Bhargava: Let me make a submission that will reconcile both viewpoints. Exception was taken in regard to clauses 20 and 27 because the words "arms or ammunition" are used there and so the definition of "arms" will affect those clauses. In fact, the hon Minister has said that only such arms as come under clause (c), and not others, are referred to in those clauses. So, we can say in clauses 20 and 27 "subject to the provisions of sub-clause (c) of clause 2". Then what the hon Minister said will be purposive. We are grateful to the hon Minister for moving this amendment. I think there will be very few persons who will not vote for this amendment. Therefore, the rest of sub-clause (c) will go away. I was the first man who moved for the deletion of sub-clause (c). At the same time, I realise that the Government must arm itself with powers in this matter.

Mr. Deputy-Speaker: That is all right. I will . . .

Pandit Thakur Das Bhargava: Now we have excluded lathis. We can now say in those sections "arms within the meaning of sub-clause (c) of clause 2", so that both viewpoints may be reconciled, and I am sure the whole House will accept it.

Shri Braj Raj Singh: Let us have the reaction of the Minister.

Shri Datar: That is a different matter.

Mr. Deputy-Speaker: The question is

Page 2, line 19,—

After "domestic or agricultural uses" insert "such as a lathi or an ordinary walking stick" (134)

The motion was adopted.

Mr. Deputy-Speaker: I cannot help Shri Patnaik if the Home Minister has deliberately brought an amendment at the last moment which takes the wind out of the sail of the amendment of Shri Patnaik.

The question is

Page 2,—

omit lines 15 to 21 (14)

The motion was negatived.

Mr. Deputy-Speaker: I shall now put all the other amendments to vote.

The amendments Nos 61 to 64, 1, 15, 16, 79, 80 and 82 were put and negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2, as amended, stand part of the Bill".

The motion was adopted

Clause 2, as amended, was added to the Bill.

Clause 3—(Licence for acquisition and possession of fire-arms and ammunition)

Shri P. R. Patel:

I beg to move.

Page 3,—

after line 38, add—

“Provided further that nothing contained in this section shall apply to an MP or ex-MP or M L A or M L C. or president of a local authority except that he shall inform the licensing authority of his possession of any fire-arm or ammunition” (65)

Mr. Deputy-Speaker: He should be very brief

Shri P. R. Patel: The purpose of this amendment is very simple. On 28th April 1950, after independence, the Government made some amendments in the rules under the Arms Act and the exemption granted to Members of the Legislative Assembly to hold arms was taken away. When the Britishers were ruling and the country was not free, the foreign Government was good enough to give exemption, at least to the Members of the Central Legislative Assembly and the local assemblies, and the exemption was given under the rules. But this rule was amended on 28th April 1950 and whatever exemption was given by the Britishers was taken away by this Government. I would submit that Britishers were wise enough to give exemption under the Arms Act at least to the Members of the Legislative Assembly. Now that exemption has been taken away. So, with this amendment, we want to give that exemption to the Members of this House, Members of the Assembly and the presidents of the local bodies.

May I ask the hon Minister whether in this country at least the presidents of the local bodies, members of the local legislatures and hon Members of this august House are persons who should be trusted or not to keep arms with them? If these people cannot be trusted then I think the Government has a disease of distrust. I think no harm will be done by accepting this amendment.

Shri Sinhasan Singh: Sir, I beg to move

Page 3, line 31,—

after “person” insert—
“excepting those under exemption” (126)

As Shri Patel has said and I agree with his arguments, under the previous Act there were certain exemptions. This Bill, as it is, does not seek any exemption of any kind. My submission will be that there should be some exemption. For example under this Act the Rashtrapati is not exempted to hold arms and the Rashtrapati has to apply to the District Magistrate for having an arm. A minister is not exempted. The Prime Minister is not exempted. The hon Speaker or the hon Deputy-Speaker is not exempted. Nobody is exempted. After all there must be somebody who is thought by the Government to be above suspicion and they should be allowed to have arms without a licence if they so choose. But under this Act there is nobody who is exempted. Even the British Government exempted certain persons to have firearms without licence.

Mr. Deputy-Speaker: If they have a list of persons who are above suspicion, it impliedly means that there are others who are under suspicion.

Shri Sinhasan Singh: Under the last Act they had a certain exempted list. Those persons were exempted. What they had to do was that they had to intimate to the District Magistrate or the authority concerned that

[Shri Sinhasan Singh]

they were having an arm, or a pistol so that they may be recorded. They were not required to go to the magistrate to put in an application on a definite form and then seek his permission or sanction to have the arm

Shri Tyagi. What happened in case they did not inform the District Magistrate?

Shri Sinhasan Singh: They must inform under the rule. Everybody who was exempted under the last Act had to inform. A register had to be kept and information was there with the Police or with the District Magistrate that so-and-so is holding so many arms without licence. The only thing was that he was not to apply for a licence.

So, my submission is that Government should have some exemption. If we say that everybody is equal before law, it is only in word. It is not applicable in practice. We must be practical men and put the thing as practical. After all, law is not law only to say something which is not practised. So my submission is that the hon. Minister should consider it and put those exemptions. Some provision or rule may be made. Some category may be made. Some people may be exempted.

Shri D. C. Sharma: Sir, I rise to oppose this amendment. I oppose this amendment because I think that our purpose is to abolish as many privileges as we can. Here, on the floor of this House, since we are in a position to pass this Bill, we want to have these for ourselves. I do not think it is very equitable. At the same time, we the elected representatives of the people should see to it that there is equality between our voters and ourselves. We should not have anything which our voters do not enjoy. I do not see any reason why we could not ask for wholesale exemption. But we ask for exemption for ourselves.

Secondly, Shri Patel says that MPs and ex-MPs should be exempted. Now, ex-MPs are not of a peculiar nature. Why MLAs and MLCs only should be exempted? Why should not ex-MLAs and ex-MLCs be exempted? Then, presidents of municipalities are sought to be exempted. Why not members of municipalities be also exempted? Then, why should not ex-members of municipalities should be exempted? Why not ex-President of municipalities should be exempted? So, I would submit very respectfully that this amendment is very discriminatory in its nature and goes against the principles of democracy which we represent in this House. It will create a kind of barrier between us and the persons who elect us to the Assembly or to the Parliament. I think this kind of a barrier should not be legalised in this way.

Shri Radha Raman: I have an amendment, No 118.

Mr. Deputy-Speaker: But that was not moved when I asked. It is not to this clause. We are discussing clause 3.

Shri Radha Raman: I am sorry.

Shri Datar. My hon. friend, Shri D. C. Sharma, has already pointed out the reasons as to why we should not accept any discrimination specially in our own favour. In this connection, may I point out that during the British regime they had a long list of exemptions for purposes which need not be discussed at present, but immediately after independence when the Government took over they removed all those exemptions. It would not be proper or dignified for us to take all these exemptions for ourselves.

My hon. friend wants the list to include also ex-MPs and ex-MLAs and ex-MLCs. That would not be proper. May I point out that in proper cases the Members of Parliament or the State legislatures will be getting it whenever they come under the

other provisions of this rule. Therefore it would not be proper to have such an exemption.

Then, I may point out to Shri Sunhasan Singh that his amendment is not necessary at all. Those who are exempted under this Act will naturally not be covered by the other provisions. Therefore I would submit that his amendment is not necessary.

Mr. Deputy-Speaker: I will put both these amendments together to the vote of the House.

The amendments Nos. 65 and 126 were put and negatived

Mr. Deputy-Speaker: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted

Clause 3 was added to the Bill.

Clause 4—(Licence for acquisition and possession of arms of specified description in certain cases).

Shri Radha Raman: I want to move amendment No 118. I just want . . .

Mr. Deputy-Speaker: That is to clause 5. He should wait a little more.

Pandit Thakur Das Bhargava: Sir, I beg to move:

Page 4, line 4,—

after "regulated" insert "for any temporary period". (83)

Page 4, line 8,—

after "notification" insert "for such temporary period". (84)

Shri U. C. Patnaik: Sir, I beg to move:

Page 4, line 3.—

omit "acquisition, possession or" (18)

Page 4, line 7.—

omit "acquire, have in his possession or" (19)

Mr. Deputy-Speaker: Is there any other amendment? None. All these amendments are now before the House.

पंडित ठाकुर दास भार्गव जगज्वाल वाला इस बिल के अन्दर यह क्लॉज बड़ा इम्पॉर्टेंट है। जब आर्म्स बिल मिनिस्टर साहब ने अपनी स्पीच की तो उन्होंने इस क्लॉज के लिए बड़ा क्रेडिट लिया और दुस्त क्रेडिट लिया। उन्होंने कहा कि प्रविकर्ता यह तो फायर आर्म्स बिल है, मिर्क इसका नाम आर्म्स बिल है क्योंकि दरअसल इसके प्राविजन्स फायर आर्म्स के मुदान्तिक है भिदा एक एक्सेप्शन के जिम को बहुत भारे मेम्बरान पसन्द नहीं करते थे। लेकिन इसके लिए मिनिस्टर साहब ने जो दलील हमारे सामने पेश की वह बहुत माकूल है। एसा हो सकता है कि किसी वकन यह चीज पब्लिक सेफ्टी और पब्लिक पीस के लिए खतरा बन जाए। चुनाचे इन दलील को हाउस ने एक्सेप्ट कर लिया और यह तमनीम कर लिया कि आर्म्स बिल मिनिस्टर की यह बात दुस्त है। लेकिन मैं अदब में अर्ज करना चाहता हूँ कि इन बात को मानने हुये भी यह रेस्ट्रिक्शन रखना दुस्त नहीं है जो कि आपने इन टफा के जगि रखे है। आर्म्स बिल मिनिस्टर साहब ने कई मतबा अपनी तर्कार में फरमाया है कि जब बड़ी भारी प्रेस एमर्जेन्सी होगी या एक्सेप्शनल सरकम्सटेंस होंगे तभी इस टफा के प्राविजन्स को इन्फोमल किया जाएगा। लेकिन इनके अन्फाज तो मुनाहिजा फरमाइये। इसमें प्रेस इमरजन्सी और एक्सेप्शनल सरकम्सटाम का जिम नहीं आया है। इसमें लिखा है

[प० ठाकुरदास भार्गव]

"having regard to the circumstances prevailing in any area, it is necessary or expedient in the public interest".

मुझे यह बहस करने की जरूरत नहीं कि कितना एम्बूज इन अल्फाज—पब्लिक इंटरेस्ट—का होता है उतना और अल्फाज का नहीं होता। अगर कोई चीज बतलानी हो तो पब्लिक इंटरेस्ट कह दिया जाता है और अगर न बतलाना हो तो पब्लिक इंटरेस्ट कह दिया जाता है। इसमें ग्रेव इमरजेंसी और एक्सेप्शनल सर्कमस्टांस नहीं दिया गया है। मैं समझता हूँ कि जब आन्डरेबिल मिनिस्टर साहब इस बात को मानते हैं कि इमरजेंसी में या एक्सेप्शनल सर्कमस्टांस में इन प्रावीजन्स को इस्तेमाल किया जायेगा तो वह इन अल्फाज को विसी न किमी तरह इसमें दाखिल कर देंगे।

15 hrs

अगर इस दफा के मुताबिक किमी एरिया में नोटिफिकेशन जारी कर दिया जाता है तो वह उम एरिया में फार आल टाइम जारी रहेगा। इसमें कोई ऐसा प्राविजन नहीं है कि जब वह इमरजेंसी खत्म हो जायेगी तो वह नोटिफिकेशन भी खत्म हो जायेगा यानी जब नार्मल कंडीशन्स आजायेगी तो यह नोटिफिकेशन खत्म हो जायेगा जैसा कि आज भी आन्डरेबिल मिनिस्टर साहब मानते हैं। उनकी यह राय है और हाउस की भी यह राय है कि ग्रेव इमरजेंसी या एक्सेप्शनल सर्कमस्टांस के सिवा इस तरह का नोटिफिकेशन जारी नहीं किया जाना चाहिए और इस तरह के रेस्ट्रिक्शन नहीं लगाना चाहिए। जो मिनिस्टर साहब का मंशा है वह साफ होना चाहिए कि इस तरह का नोटिफिकेशन टेम्पोरेरी पीरियड के लिए ही जारी किया जा सकता है और जब तक इमरजेंसी लास्ट करनी है उसी वक्त तक वह समाप्त रहेगा। उससे एक दिन भी

ज्यादा इसको जारी रखना जायज नहीं होगा। इस चीज को साफ न करने से जो गवर्नमेंट का मंशा है वह भी साफ नहीं होता और हाउस का मंशा भी पूरा नहीं होता। इसलिए मैं अदब से अर्ज करना चाहता हूँ कि इसमें दो बातें बढ़ानी चाहिए। यानी एक तो यह कि इस तरह का नोटिफिकेशन इमरजेंसी के टेम्पोरेरी पीरियड के लिए ही हो और इमरजेंसी खत्म होने के साथ यह नोटिफिकेशन भी खत्म हो जाये। जब तक आप यह दो बातें नहीं रखेंगे तब तक मुझे डर है कि इसका असर यह होगा कि अगर एक दफा सारे हिन्दुस्तान के लिए या किमी प्राविंस के लिए इस तरह का नोटिफिकेशन जारी कर दिया गया तो वह हमेशा के लिए हो जायेगा। और पब्लिक का आर्म्स रखने का राइट हमेशा के लिए खत्म हो जायेगा इसलिए यह बात माफ होनी चाहिए।

अभी हमने दफा ३ पास किया है जो कि बहुत इम्पोर्टेंट है। उसमें दिया हुआ है

"No person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds"

इसका मतलब क्या है? आप मुलाहिजा फरमाएँ कि यह दफा ३ हिन्दुस्तान के हर आदमी को अस्तिधार देता है कि वह सिवा फायर आर्म्स के और आर्म्स रख सकता है जो कि दफा ३ में नहीं आए हैं। लेकिन दफा ४ में यह चीज साफ नहीं की गई है। इसका असर यह होगा कि जो आर्म्स दफा ३ में ब दफा २० और २७ में दिए हुए हैं वह भी इस दफा में आ जाते हैं। इस लिए इसमें यह साफ हो जाना चाहिए कि इन दफा में दिये गये आर्म्स को वह सेक्शन एप्लाई नहीं करेगा।

श्री हेमराज . दफा ५ में जो यह दिया गया है कि

"Shall manufacture, sell, arms and ammunition....."

यह चीज भी साफ हो जानी चाहिए कि आर्म्स किसको कहा जायेगा ।

पंडित ठाकुर दास भागंब : मैं दफा ५ के बारे में बोल रहा हूँ । आप दफा ५ के बारे में यह कह सकते हैं । तो मैं यह अर्थ कर रहा था कि आनरेबिल मिनिस्टर साहब का मसौदा यह नहीं कि हर तरह के आर्म्स पर पाबन्दी लगाई जाये । मैं यह मानने को तैयार हूँ कि वह हिन्दुस्तानिया के हकूक को बढ़ाना चाहते हैं । और जबग्दस्त लिबरलाइजेशन करना चाहते हैं । लेकिन मैं अर्थ करना चाहता हूँ कि इस दफा का अर्थ यह होगा कि जो हकूक आप एक हाथ से देगे वो दूसरे हाथ से ले लेंगे जो कि आपका मसौदा नहीं है । इस सिलमिले में मुझे एक मिमाल याद आनी है । ऊट के गले में बिल्ली की, यानी ऊट तो दो पैरों का है लेकिन उसके गले में जो मरी हुई बिल्ली है वह २०० रुपये की है । मैं यह कहना चाहता हूँ कि दफा २७ में कहा गया है कि अगर आर्म्स अनलाफुल परपज के लिए रखे जाये तो जुर्म है । मैं पूछना चाहता हूँ कि मैं यहाँ बैठा हूँ और मेरे घर पर आर्म्स है । तो यह कैसे कहा जा सकता है कि वह लाफुल परपज के लिए है या अनलाफुल परपज के लिए है या मैं अगर उनकी अर्थने माय ले जा रहा हूँ तो वह लाफुल परपज के लिए है या नहीं यह कैसे समझा जा सकता है ? इसका मतलब यह होगा कि आप पुलिस के अफमरी को शोगो की लिबरटी के खिलाफ एक बड़ा अक्सियार दे देंगे जिसमें हमारी सारी लिबरटी खत्म हो जाएगी ।

१. इस तरह हमारी सारी की सारी लिबरटी खत्म हो जाती है । एक तरफ सरकार

हम को अक्सियार देनी है कि तुम हथियार रखो, सिवाये फायर आर्म्स के और दूसरी तरफ वह कहती है कि जिन की तुम को रखने की इजाजत है, अगर तुम उन को ले जाओगे, तो पुलिस वाला यह कह कर कि यह अनलाफुल परपज के लिए है, वही गिरफ्तार कर लेगा और मुकदमा चला, दिया जायेगा । और सिर्फ पुलिसमैन ही नहीं कोई भी पब्लिक सर्वेंट यह कह सकता है । रेलवे में भी ऐसा ही होना सकता है । जो आनरेबिल मिनिस्टर साहब ने दिया है, उसका सर्वनमेंट ने जो कंटिट लिया है वह दुर्गम लिया है लेकिन वह इस को माफ़ कर ले, ब्रस्ट कर ले, त कि कोई यह न कह सके कि सर्वनमेंट ने हमारे मथ कोई चार सौ बीस किया है—इस हाथ में दिया है और उस हाथ में ले लिया है, बल्कि ज्यादा ले लिया है और हमारे हकूक खत्म कर दिये हैं । अगर मिनिस्टर साहब चाहें, तो दफा ५ में एड कर दें ।

श्री वी० बं० शर्मा श्रीमान्तीय सदस्य ने कहा है कि सर्वनमेंट ने चार सौ बीस किया है । इसका क्या मतलब है ?

पंडित ठाकुर दास भागंब : मैं इसको डिफाइन तो कर देता, लेकिन मेरे लायक दोस्त मुझ से ज्यादा जानते हैं कि चार सौ बीस क्या है । मैं ने यह नहीं कहा कि सर्वनमेंट ने चार सौ बीस किया है । मैं कहता हूँ कि लोग ऐसा कह सकेंगे कि सर्वनमेंट ने चार सौ बीस किया है । आनरेबिल मिनिस्टर साहब ने जो यह कहा है कि उन्होंने हमारे राइट्स बढ़ाये हैं, उस पर यकीन करता हूँ । फिलवाके सारे हिन्दुस्तान के राइट्स बढ़ाये गये हैं । मैं उस का डाउट नहीं करता हूँ । लेकिन एक हाथ से देना और दूसरे हाथ से लेना ठीक नहीं है । मेरी गुजारिश है कि इस बारे में सोच कर दफा ५ में इस चीज को बढ़ाया जाये कि आर्म्स से वही मुराद है कि

[पं० ठाकुर दास भार्गव]

जिन के लिए लाइसेंस लेना जरूरी हो, यह उनके भुतात्त्विक है हीं, दूसरो के भुतात्त्विक नहीं ।

Shri U. C. Patnaik: Mr Deputy-Speaker, this is another very retrograde step in the present Arms Bill. Here, the Government wants to say that whenever the local authorities feel the necessity of declaring a certain area as a disturbed area, they can prohibit certain types of instruments or articles in that area from being acquired, possessed or carried. Of course, as regards carrying, there is some sense in it, because Government do not want people to carry weapons which they consider to be dangerous. As regards other arms which a person either acquires or has in his possession as soon as there is the official Gazette notification, he must get a licence for it. You will please appreciate how difficult it will be for them. Even now, after so much of discussion, the hon. Minister was pleased not to say that a knife has to be excluded from the arms. Every house has got a vegetable cutting knife, has got knives for cutting mutton and other things. Even that knife will now come under that notification. The difficulty is, unless the owner gets a licence, he is liable to be punished. What is the sentence? Three years imprisonment for possession, acquisition or carrying. The same punishment that is meant for possession of prohibited weapons, machine guns etc. or a dacoit's weapon is prescribed also for possessing a small knife, if once the local authorities deem it fit to include it in that list. My submission is this. The Government can prohibit the carrying of all kinds of arms. But, if arms which were not declared as arms till now, which are in the possession of households and agriculturist families throughout a particular area, are suddenly declared as arms for that prohibited area, no one can ever possess or acquire them. Of course, I

have no objection to any law regulating the going out with these arms. That is with a view to prevent somebody coming into clash or using that in an affray. To say that a man should not possess even a knife in his house—a vegetable cutting knife—if it comes in that list, is not only to make the whole country defenceless, but helpless. My submission is that we should also take practical difficulties into consideration, because if you declare a knife as an objectionable weapon here in Delhi, everybody will have to rush to the magistrate or who-soever it may be for getting a licence, and you know the difficulty of getting a licence. That point had taken up so much time of the Select Committee. To say that thousands and thousands of people, on the declaration of an emergency should rush to the licensing authorities for licences for knives and other things, that they have in their possession is really highly undesirable and a retrograde a step.

I appeal to the Minister to reconsider this clause and to delete acquisition and possession, he may, if he likes, retain going out with any of these instruments.

Pandit Thakur Das Bharagava: In clause 27 the only question is of possession. There is no question of the carrying of arms.

Shri U. C. Patnaik: Yes, that is why it makes it all the more serious. Of course, he says possession for ulterior purposes. Anyway, we are not on clause 27 now. We are now on clause 4, and I would appeal to the Minister to agree to delete the possession part of it. Let people have knives or any other weapons in their houses.

Shri Datar: Two points have been raised by hon. Members.

My hon. friend Pandit Thakur Das Bhargava has suggested not a time limit but an expression which is perfectly vague. What he wants is that the expression "for a temporary period" should be used. Now, the word "temporary" itself is extremely vague. It may mean anything. Therefore, I would like to assure my hon. friend that there is no desire on the part of Government to keep the powers of regulation under clause 4 for all time to come, but only so long as the emergency is there, and the question of emergency has been referred to very clearly, though in what may be called very tactful language—"having regard to the circumstances prevailing in any area" The circumstances would not be normal circumstances, the circumstances are bound to be abnormal or bound to be grave, because recourse is going to be had to the regulation of arms. Therefore, I submit to my hon. friend that the Government have power under the General Clauses Act to withdraw any action that they take under clause 4. There is no difficulty of taking it back, but there might be certain areas, the hon. Member will kindly understand, where it may be necessary to keep the use of clause 4 for a longer period. It may not necessarily be a temporary period. There might be certain plague spots where some more time would be necessary than implied by the expression "temporary period". Therefore, I assure the hon. Member that there is no desire to keep the use of clause 4 for all time to come, and the moment it is found that things are returning to normal, naturally the powers would be withdrawn under the General Clauses Act.

Then, my hon. friend Shri Patnaik stated that possession should not be controlled, but may I point out that possession or storing might be more dangerous than even actual use. In such cases what happens is that arms and ammunitions are stored in a

particular house and then they are freely, though illegitimately, used in the locality. Therefore, the act of possession, the act of storing, is equally dangerous, perhaps more dangerous. Let him take that circumstance into account. Therefore it is that only under exceptional circumstances, when it is found that the possession itself is not of an ordinary type, not of a legitimate type, that it is likely to lead to dangerous consequences, that action will be taken. That is the reason why all these things have to be taken together.

Pandit Thakur Das Bhargava: Possession for unlawful purposes—it does not speak of stockpiling or storing or anything of that sort. These words may be used against an individual for a single weapon also. The difficulty is there I quite agree stockpiling is very objectionable, but at the same time even keeping a single weapon by a single individual would come under this.

Mr. Deputy-Speaker: Nowadays stockpiling can only be of nuclear weapons.

Shri U. C. Patnaik: In our country stockpiling applies even to knives. Our Government does not trust the people.

Mr. Deputy-Speaker: I shall now put the amendments to the vote of the House.

The amendments Nos 83, 84, 18 and 19 were put and negatived.

Mr. Deputy-Speaker: The question is.

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Deputy-Speaker: We had fixed the time up to 3 o'clock. Can I put all the clauses now together?

Shri Braj Raj Singh: We shall have to go up to 5 o'clock.

An Hon. Member: It may be extended.

Mr. Deputy-Speaker: At that time the House thought it would be able to finish by 3 o'clock.

Shri Braj Raj Singh: May I say the hon. Minister was unnecessarily taking time?

Mr. Deputy-Speaker: He has the same complaint against the hon. Members.

Pandit Thakur Das Bhargava: In view of the fact that the hon. Minister has put in an amendment which is acceptable to the House, the time has been utilised well, and therefore it should be extended.

Mr. Deputy-Speaker: At least we should be conscious of the fact that it has been extended twice, and now we should go at a speedier pace.

Shri Warrior (Trichur): At least the clause pertaining to appeal against the refusal of a licence is very important, as important as the definition of arms.

Mr. Deputy-Speaker: If the House feels that the other clauses can be put together and this clause alone may be put separately, then I am prepared.

An Hon. Member: All separately.

Mr. Deputy-Speaker: I will go on now unless I am stopped by an hon. Member.

Shri Hem Raj rose—

Mr. Deputy-Speaker: From unexpected quarters!

श्री हेमराज: उपाध्यक्ष महोदय, सभी प्रार्थना की डेफ़ीनीशन पर इतनी बहस हुई है। उसमें ये लफ्ज़ इस्तेमाल किए गए हैं—डिजाइन्ड और ऐडेप्टिड। बनाने वाला तो कोई मिस्त्री होगा। सैकशन ५ में ये लफ्ज़ है

"No person shall—

(a) manufacture, sell, transfer, convert, repair, test or prove, or

(b) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof,

any firearm or any other arms of such class or description as may be, prescribed or any ammunition, "

मे इस बारे में वर्नेफिकेशन चाहता हूँ। मैं यह जानना चाहता हूँ कि अगर एक मिस्त्री एक चाकू बनाता है या और कोई चीज़ बनाता है तो क्या उसके लिए लाइसेन्स की जरूरत होगी। अगर वह कोई ट्यूबा बनाता है या गैरी लाठी बनाता है, जिसके साथ लाठे लगा हुआ है, तो जहाँ सैकशन ४ के नीचे एम्प्रेनेसी प्राविजन नहीं है, क्या उस के लिए लाइसेन्स लेने की जरूरत पड़ेगी या नहीं?

श्री राधा रमण: उपाध्यक्ष महोदय, मे मंत्री महोदय का ध्यान पन्ना ५ में रिपेयर और टेस्ट के बारे में जो एडिशन किया है, उस की तरफ़ दिलाना चाहता हूँ। हमारे मुल्क में ऐसे बहुत से लाइसेन्स-होल्डर होंगे, जो कोई हथियार अपने साथ रखने होंगे। मान लीजिए कि राइफल है या और कोई हथियार। अगर वह खुद रिपेयर करे, या टेस्ट पर रखे, तो क्या उसके लिए किसी अनग लाइसेन्स की जरूरत होगी? मैं समझता हूँ कि उस सूत्र में इन क्लॉज के वाइडनज़ कभीपर नहीं हैं। हमें इस बात से एव्योर्ड होना है कि जो

बहुत से राष्ट्रिय क्लब हैं, राष्ट्रिय होल्डर्स हैं, अगर वे अपनी राष्ट्रिय को सुधारे या उसे टैस्ट पर रखें, तो उस के लिए सैपरेट लाइसेन्स की जरूरत इस कानून के मुताबिक पड़ेगी या नहीं। अगर वह पड़ेगी, तो वह हाईशिप है और उस को हटा देना चाहिए। मेरा इतना सा संशोधन है और वह पोलीशन को साफ़ कर देता है। वह इस प्रकार है कि लाइन ३३ के बाद यह proviso रख दिया जाये—

"Provided further that an individual holding a valid firearms licence shall not be required to have a separate licence for repairing or testing the weapon."

मेरी राय में इस क्लब के मातहत, अगर यह ऐसा ही पाम किया गया तो एक लाइसेन्स-होल्डर अपने फायर-आर्म को रिपेयर करे या टैस्ट पर रखे, तो उस को इजाजत नहीं होगी। उस को सैपरेट लाइसेन्स की जरूरत पड़ेगी, जो कि मैं समझता हूँ, गैर-मुनासिब और गैरवाजिब है। इस लिए मेरी दरखास्त है कि या तो इस को क्लीयर किया जाये, या मेरी प्रॉपोजेक्शन को मंजूर किया जाये।

Shri Datar: May I point out that here the word 'repair' has been purposely put in? 'Repair' means repair in respect of substantial matters. If, for example, a nut has to be put in or something of that kind, that would be a matter of minor detail. But there might be repairs which it might be open to him to do, but subject to certain risks; it is not very proper and it is not advisable to go on repairing even such instruments oneself. That is the reason why the word 'repair' has been purposely put in. Whenever substantial repairs are required, then, naturally, he ought to take a licence for repair, or even for test itself.

Mr. Deputy-Speaker: Need I put in any of the amendments to the vote of the House? I take it that they are not pressed.

249 (A1) LSD—7.

The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 to 8, were added to the Bill.

Clause 9.— Prohibition of acquisition or possession by, or of sale or transfer to young persons and certain other persons of firearms etc.

Pandit Thakur Das Bhargava: I beg to move:

Page 5 and 6,—

omit lines 27 to 38 and 1 to 11 respectively (85).

Mr. Deputy-Speaker: The amendment is now before the House.

पंडित ठाकुर दास भार्गव: इस क्लब के मुताबिक, जो गल्ल १६ वर्ष से कम उम्र का हो या जिम को छ महीने में ज्यादा सजा किसी ऐसे आफ्रॉन्स के लिए हो गई हो, जो कि मारेल टर्पीब्यूड या वायलेस की इन्वाल्ड करता हो, और जिम से दफा १०७, १०८, १०९ और ११० के मातहत बाइ एन्सीक्यूट कराया गया हो, उनके बारे में करार दिया गया है कि वे लायसेंस देने के काबिल नहीं हैं और साथ ही जो अनमाउड माइड का हो, ऐसे लोगों को यह चीज बेची नहीं जा सकती और न दी जा सकती है। इस मिलसिले में मुझे इतना भ्रम करना है कि जहां तक सौलह वर्ष के बच्चे का मवाल है, बेहतर होता कि इस उम्र को कुछ कम कर दिया जाना, क्योंकि बच्चे शुरू में, अवयल उम्र में अच्छे मार्कमेंट बन जाते हैं, इस लिए वे प्रैक्टिस कर सके और इन्तेमाल कर सके। यह मा-बाप का फर्ज है कि उन के पास जो भी हथियार हो, उन का वे अच्छा यूज कर सके। बुनाचे आनरेबल मिनिस्टर पाहब ने इस बारे में उन को थोड़ी सी रियायत भी दी है, जो कि दफा २ में आती है। पीनल

[पंडित ठाकुर दास भार्गव]

कोड के मुताबिक १४ वर्ष की उम्र तक के बच्चों को सजा नहीं होनी चाहिए—सात वर्ष तक तो कतई नहीं और सात से चौदह वर्ष तक के केपसिटी पर और समझ पर मुनहस्सिर है। लेकिन नाबालिग को सजा देने का क्या फायदा होगा? हम हमेशा कहते हैं और मेरे लायक दोस्त आनरेबल मिनिस्टर साहब खास तौर पर लड़कों से मुहब्बत होने की वजह से, सिम्पेथी होने की वजह से, उन के लिए पूरी रियायत देते रहे हैं। चुनावों के लिए उन को ही नहीं, बल्कि बड़ों बड़ों को भी कंद से बचाया गया है। तो फिर क्या छोटे छोटे बच्चों को किसी जुर्म में कंद किया जायगा? क्या किया जायगा? इस सूरत में १६ वर्ष के बच्चे पर यह कंद लगाना वाजिब नहीं है।

इसी तरह से सब-क्लाज (१) (ए) (२) और (१) (ए) (३) में ऐसे अशस्त्रास प्राप्त हैं, जो फिनवाके गुंडों और बदमाशों की तारीफ में नहीं आते हैं, जिन पर १०७ के मुकदमे बनते हैं। हम रोज देखते हैं कि बेहतर से बेहतर आदमियों पर १०७ का मुकदमा बन जाता है। दो पाटियां होती हैं और एक पार्टी दरखास्त देती है और दूसरी भी दरखास्त देती है। अगर पुलिस ने एक को प्रोटेक्शन देनी है, तो वह एज ए मॅटर आफ़ कोर्स दोनों पाटियों का चालान करती है और बीस बीस, तीस तीस आदमियों का चालान कर देती है, हालांकि वे सब लड़ने वाले नहीं होते। ऐसे अशस्त्रास उस में आते हैं, जिन के बारे में यह नहीं कहा जा सकता कि वे हथियारों का मिस्यूज करेंगे। बल्कि १०७ में दो पाटियां होंगी। एक पार्टी को डर होता है कि मुझ पर हमला होगा और फ़िलवाके दोनों को डर होता है कि मुझ पर हमला होगा। बचाव के लिए सरकार जो हथियार देती है, उन को इस प्रोटेक्शन से महकूम कर दिया जाता है, इस वजह से कि मेरा कोई शुभन है, जो मेरे बरखिलाफ़ कार्यवाही करने वाला है। इस लिए एक्सीक्यूशन का बांड

इस बात की गारंटी है कि वे कोई जुर्म नहीं करेंगे। ऐसी सूरत में दफ़ा १०६ और दफ़ा १०७ है। दफ़ा १०६ दफ़ा (१) (ए) (२) के मुताबिक है। जब कोई ऐसा जुर्म होता है, तो कोर्ट कहती है कि दफ़ा १०६ के मातहत तीन साल के लिए जमानत ले ली जाय। दफ़ा (१) (ए) (२) में जो आते हैं, वे भी आम तौर पर ऐसे अशस्त्रास नहीं होंगे। ये क्या लफ़्ज़ हैं? इन की किसी ने तारीफ़ नहीं की है। मारेल टर्पीच्यूड की किसी ने तारीफ़ नहीं की है और न ही वायनैन की की है। अगर कोई ज़मीन पर ज़ोग में लाठी मार दे, तो वह वायलेंस बन जाती है। मारेल टर्पीच्यूड एक ऐसा वेग लफ़्ज़ है, जिन के मायने ठीक मसझे नहीं जाते हैं। इन तीनों कैटेगरीज को बिलकुल डिस्क्रैवाइज कर देना, उन को उन रियायतों से कतई महकूम कर देना, जो कि सारे हिन्दुस्तान को दी गई हैं, मेरी राय में जायज़ नहीं है। और फिर जिन लोगों को पकड़ने की आप की मशा है, उन पर यह अमर नहीं रखता। जो बदमाशों करने हैं, जो डाकू हैं, जो राहुजनी करने हैं, वहा तक तो हम पहुंचते नहीं हैं। दफ़ा १०७ तो भलेमानसों के लिए है, लुगाडों को कौन पकड़ता है, डकैनों को कौन पकड़ता है? मैं अर्ज करूंगा कि इन तीन चार क्लामिज के लिए यह नहीं करना चाहिए। इसी तरह से दफ़ा ६ के पहले जो लाइन्स हैं, वे भी इसी तरह की हैं। एक शक़्म को मजबूर करना कि तुम किसी को बेंचोगे नहीं, उस को अननेमेसरी बाधना है। अगर उस को इल्म होगा, तो वह बेंचेंगा नहीं, क्योंकि पोज़ेशन बाई इटसेल्फ़ जुर्म होगा। आगे दफ़ा ५ में वह जुर्म है। अगर कोई ऐसा लेगा, तो उसी पर जुर्म आ जाता है। तो बेंचने वाले का क्या कुसूर है? जब तक कि हम पूरे तौर पर, कनक्लूसिव तौर पर यह न कह सकें कि उस को पता है, उस का क्या कुसूर है। मैं अर्ज करूंगा कि यह ऐक्ट ऐसे लोगों को एनमैश करता है जिन लोगों को कि नहीं

बदना चाहिए। इस लिए इस को निकाल देना चाहिए।

Shri C. K. Bhattacharya (West Dinajpur) May I say a few words on this amendment? In this clause, the minimum age for acquiring or possessing firearms has been reduced from eighteen to sixteen. In the previous Act, it was eighteen. But in the present Bill, the Joint Committee have reduced it to sixteen years. I believe the previous Act did it better by prescribing the age of eighteen for a person being permitted to acquire or possess or carry firearms. That was done for one particular reason. When a boy is eighteen, he is at least recognised as a major under the law. Therefore, we should wait for a boy to attain at least majority before he could be allowed to carry or acquire or possess firearms.

Shri Tyagi: Or let him get married.

Shri C. K. Bhattacharya: Otherwise, it would be something like giving firearms in the hands of a minor.

Of course in our legislation, different ages have been prescribed for young men in different Acts, somewhere it is twenty somewhere, it is twenty one and somewhere, it is eighteen but nowhere has the age been brought down below eighteen. This is the first time I believe, when the age is being brought down below eighteen. And that is a very serious matter, because it involves permission to use or carry firearms. Therefore, I submit that it ought to be restored to what it was in the previous Act, that is, eighteen.

Mr. Deputy-Speaker: We have been raising it only for marriage purposes, but we have brought it down for this purpose.

Shri C. K. Bhattacharya: If you could have permitted me some more time, I could have gone over various legislations to point out how different ages have been prescribed in different Acts.

Mr. Deputy-Speaker: But I have pointed out that we have been raising it only for marriage purposes, that is, for having the pleasure of married life, but here we want to reduce it.

Shri C. K. Bhattacharya: We should consider this matter, because possession of firearms is not a less serious affair than going into marriage.

Shri D. C. Sharma: I think the main purpose of this Arms Bill is very restrictive. I think every clause through which we go makes that restrictiveness more and more pronounced. Therefore I think after we have finished with all the clauses, there will be very little left of this Arms Bill as it may affect the people of this country.

I do not see any reason why the age limit should not have been lowered further. If it had been lowered to sixteen I do not understand why it could not be lowered to fourteen.

Shri C. K. Bhattacharya: Why not ten?

Shri D. C. Sharma: There was some sanctity so far as the age of eighteen was concerned because that is called the age of majority. But when you have come below eighteen, I think it should have been reduced to fourteen, so that those persons who want to qualify themselves for the Army or who want to qualify themselves for martial professions would be able to make use of this.

Again, it has been said that those persons who have been convicted for a term of at least six months imprisonment should not be given a licence, the convictions relating to violence or moral turpitude. Now, I do not know how moral turpitude can deprive a person of the use of arms. Moral turpitude may be due only to the fact that he or she was not able to defend himself or herself properly. Therefore, sometimes this moral turpitude may be given the go-by only by the possession of some weapon of defence.

[Shri D C Sharma]

Then again, take violence. If you want to exclude violence, I think no one can get any licence for arms, because violence is such a vague, general and omnibus word that anything can come under that expression.

Further, the provision that you should not be able to give this thing for repair, conversion etc will make the scope of the Bill very very restrictive. I believe that these restrictions will not prove to the good of our country or to the advantage of our population.

Therefore, I think that the whole of this clause from sub-clause (a)(ii) onwards should be deleted and we should have instead of 16, the age of 14 in sub-clause (a)(i).

Shri C. K. Bhattacharya: May I point out that what Shri D C Sharma wanted is really provided for in the proviso to sub-clause (2) which reads

"Provided that different age-limits may be prescribed in relation to different types of firearms"

So if the authority allowing the firearms were inclined that way, it could put the age down to 14 or 10 or 12 or 6, whatever it likes.

Shri Datar: I was a bit surprised at the amendment moved by my hon friend, Pandit Thakur Das Bhargava. You will find that similar prohibitions exist both in the USA and UK Acts. Certain persons have to be prohibited from possessing these arms. I agree with Shri C K Bhattacharya that the age ought to have been 18 years because 18 is the age of majority. But there was considerable desire in the House that it ought to be reduced to 16 for possessing or acquiring arms. 16 is the age of puberty, if I can put it to my hon friend, though it may not technically be the age of majority. That is the reason why we have accepted the age of 16 for this purpose.

Shri Tyagi: Puberty is for girls.

Shri Datar: Even for man puberty is there.

Shri Tyagi: Is it in your State?

Shri Datar: If my hon friend wants something more, in *Manusmriti* they have said 'बाला प्राचीदशकवं'।

That means, till 16 a man is a minor, after 16, a man becomes a major. This is by the way.

Pandit Thakur Das Bhargava: In our Army and Navy, the age of recruitment is 15.

Shri Datar: Whatever it is, the ages are different in different places. As you have rightly pointed out, whereas the age for certain purposes like marriage is raised, it has been brought down to 16 for the purpose of possessing weapons.

Then conviction is a matter which has to be taken into account. It is a great disqualification. It is not conviction and imprisonment of 6 months for a mere technical offence, it is conviction involving violence and moral turpitude. These are words of constant use. Unfortunately, my hon friend, the Professor, has not appreciated these words. But they are used in a number of enactments.

Shri D C Sharma: That is why our enactments are so poor and ineffective. Here, words are used without understanding their meaning.

Shri Datar: In regard to the propriety of our enactments, I would rather accept the opinion of lawyers and experts than of a Professor of English.

Regarding the execution of a bond under Chapter VIII of the Code of Criminal Procedure and the prohibition enforced during the period of the bond, you will see that the use that has to be made consists of the acquisition, sale, transfer, conversion, repair etc. These are the things which ought

not to be allowed to be made by a person who has come under this prohibition. That is the reason why this prohibition clause has been put in. It would be dangerous to take away the clause altogether. Thereby the weapon would not be properly used and there would be danger to the person of the user himself.

I would invite your attention to sub-clause (2) under which for the purpose of training it would be open to prescribe certain conditions in the course of training in the use of fire-arms. There also, it would be open to the authorities to prescribe different age-limits in relation to different types of fire-arms

This is the reason this is a very important clause and its complete deletion will lead to dangerous consequences

Shri Tyagi: May I seek a clarification? This clause governs the possession of fire-arms as well. Now in cases where training is given to NCC cadets in a regulated manner, if those boys are below this age, can they possess these firearms for half a minute?

Shri Datar: That is what I have said. I would read sub-clause (2)

"Notwithstanding anything in sub-clause (1) of clause (a) of sub-section (1), a person who has attained the prescribed age-limit may use under prescribed conditions such firearms as may be prescribed in the course of his training in the use of such fire-arms."

Shri Tyagi: But this pertains to persons who have attained the prescribed age I submit that in the N.C.C. and A.C.C. boys of younger age are also sometimes taught.

Shri Datar: I would invite the hon. Member's attention to clause 45 where

all such things have been exempted. There it is said:

"by a member of the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948, or by any officer or enrolled person of the Territorial Army Act, 1948 . "

Shri Tyagi: That is right

Mr. Deputy-Speaker: I shall now put amendment No. 85 to vote. Question is:

Pages 5 and 6,—

Omit lines 27 to 38 and 1 to 11 respectively

The motion was negatived.

Mr. Deputy-Speaker: The question is

"That clause 9 stand part of the Bill"

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 to 12 were added to the Bill

Shri U. L. Patil (Dhulia): I beg to move

Page 8, line 1,—after "application" insert—"within 30 days" (2)

Page 8, line 7,—after "gun" insert—"including breech-loader". (3)

Pandit Thakur Das Bhargava: I beg to move.

Page 8, line 3,—after "Chapter" insert "without unnecessary delay". (86)

Shri Warior: I beg to move:

Page 8, line 19,—Add at the end—"or by individuals where there are no rifle-clubs or such other associations". (27)

Shri U. C. Patnaik: I beg to move.

Page 8, line 16,—for “point 22 bore rifle or an air rifle” substitute—“point 22 small bore rifle using rim fire cartridges” (24)

Shri P. R. Patel: I beg to move

Page 8, line 2,—after “inquiry” insert “within two months” (66)

Page 8, line 4,—

(1) omit “either”,

(ii) for “or refuse to grant the same” substitute “unless he comes to the conclusion that the applicant is a robber, thug, thief or anti-social or anti-national” (67)

Page 8, lines 9 and 10,—for “in respect of a muzzle-loading gun to be used for bona fide crop protection” substitute “for protection of agriculture or agricultural implements or cattle” (68)

Shri Mulchand Dube: I beg to move

Page 8,—after line 4 add—“Provided that if an applicant files an affidavit to the effect that he does not suffer from any of the disabilities specified in section 9, the enquiry referred to in this sub-section shall be dispensed with and the licences applied for granted forthwith” (106)

Shri Hem Raj: I beg to move

Page 8, line 10,—after “loading” insert “or bore” (35)

Page 8,—omit lines 11 to 15 (36)

Mr. Deputy-Speaker: Both the clause and the amendments moved are before the House

Shri P. R. Patel: Sir, when an enquiry has to be made, two months are quite sufficient to satisfy oneself after an enquiry whether a man should be given a licence or not. That is one

amendment. My another amendment is that the licence should not be refused unless the officer comes to the conclusion that the applicant is a robber, thug, thief or anti-social or anti-national. If he is such a person, the licence may be refused. For any other reason, the licence should not be refused. Suppose a man goes for a licence. Then the consideration is political, his political affiliation is the consideration. I know in my constituency very good persons ask for licences but they were refused. But third-rate persons working under the Congress flag have been given licences for revolvers. So, the discrimination is there and at the district level it is too much. If the officer comes to the conclusion that a person is a robber, etc. then alone the licence should be refused.

Shri Tyagi: How does he say that under the Congress flag there are anti-national and anti-social elements? (Interruptions)

Shri P. R. Patel: I did not say so. The person under the Congress flag gets a licence and I tell you so. I know cases but I do not want to narrate them here. There is another amendment. He has been pleased to say that the muzzle loading guns may be used for crop protection. But if a farmer wants it for the protection of agricultural implements, cattle, etc. then also, a licence should be given. There are cases where farmers stay on a farm and they keep their implements and cattle there. Suppose, robbers come at the night time to take away their cattle, a gun cannot be used if it is given for crop protection.

Mr. Deputy-Speaker: That crop protection is protection from animals and birds. Implements would not require that protection.

Shri P. R. Patel: I think these words should also be included and I hope he will agree to my amendment.

Shri Warrier: I have moved an amendment, No 27, to clause 13. In

respect of point 22 bore rifle, I want that licence shall be granted to the rifle clubs or rifle associations licensed or recognised by the Central Government. But in places where there are no rifle clubs, individuals also may be given. Rifle clubs are few and far between in our country. If licences are given like this, it will encourage the formation of rifle clubs where there are none now. That is my suggestion.

पंडित ठाकुर दास भार्गव : जनाब डिप्टी स्पीकर साहब, इस क्लॉज १३ में मेरी जो एमेंडमेंट नम्बर ८६ है, उसके जरिये मैं इतना ही चाहता हूँ कि वर्ड्स 'विदभाउट थ्रान्नेसेरी डिलें' जोड़ दिये जायें।

थानरेबल मिनिस्टर साहब ने अपनी स्टीच में फरमाया था कि पीरियड मुकरंर करने की इस वाम्ने जरूरत नहीं है कि बहुत से केसिस एक महीने के अन्दर ही तय हो जाया करेये। अगर ऐसा हो सके तो मैं उनको मुबारिकबाद दूंगा। मैं यही उम्मीद कर सकता हूँ कि जो लाइसेंस को एप्लीकेशंस होगी उनका निपटारा एक महीने में ही कर दिया जाया करेगा। लेकिन मेरे ख्याल में कई ऐसी सूरतें होगी जिन के अन्दर जरूर ज्यादा वक्त लगेगा। उन सूरतों के लिए मैं चाहता हूँ कि इन वर्ड्स को खूब दिया जाए। लाइसेंस एक महीने में दिया जाए या दो महीने में लेकिन गैर जरूरी डिले नहीं होनी चाहिए और मेरी एमेंडमेंट को मान लेने से यह परपज एचीव हो सकेगा और कुछ नहीं। इतना ही मुझे इस एमेंडमेंट के बारे में कहना है।

Shri U. L. Patil : I have two amendments to clause 13. By my amendment No. 2 I want to put certain specific limits for the disposal of applications for licences. Our experience is that these applications are pending with the District Magistrates for months. Even for some years, they are kept pending. I will give you an instance where even for the cancellation of a licence, it was left

over for one year. One licensee was called upon to show cause why his licence should not be cancelled as there was a dispute between him and his eldest son and there was a possibility of breach of public peace. After having submitted his reasons for not cancelling the licence, after the lapse of one year practically, his licence was cancelled. The District Magistrates do not apply their minds and that is why there should be a limitation on the time. Our Minister has been good enough to say that the applications will be disposed of expeditiously. But that has not been the case and I submit that my amendment may be accepted and the words 'within 30 days' may be inserted. My second amendment is to the effect that the farmers should be given a licence for muzzle-loaders, including breech-loaders.

श्री ब्रज राज सिंह : उपाध्यक्ष महोदय, इस क्लॉज के सम्बन्ध में मैं केवल इतना कहना चाहता हूँ कि जहाँ तक लाइसेंस देने का प्रश्न है, उनके बारे में कानून ऐसा बनना चाहिए कि जो इच्छा सरकार की है, वह पूरी हो सके। सरकार की ऐसी इच्छा मालूम पड़ती है कि कुछ प्रकार के फायर आर्म्स, कुछ प्रकार के हथियार बिना किसी रुकावट के लोगों को रखने की इजाजत हो और उनके लाइसेंस बिना किसी खास रुकावट के दे दिये जायें। लेकिन मैं समझता हूँ कि उनके बारे में भी यह होगा कि पुलिस को रिपोर्ट मांगी जाएगी और इस रिपोर्ट को नाने में किन्ती ही दिक्कतें पेश आयेंगी। उदाहरण के लिए मैं बतलाना चाहता हूँ कि क्लॉज १३ की सब-क्लॉज में यह लिखा हुआ है —

"On receipt of an application, the licensing authority, after making such inquiry, if any, as it may consider necessary, shall ."

होना यह चाहिये था कि कुछ प्रकार के हथियारों के बारे में कोई इनक्वायरी अथवा तहकीकात न हो और इस उद्देश्य को

[श्री मन्मथराज सिंह]

श्री मूल बन्द दुबे का एक सशोधन है और वह पूरा कर देता है। इस बात की इनवायरी हो सकती है कि क्या वह प्रीवियस कनक्विट तो नहीं है, ११७ में बाउंड डाउन तो नहीं है या उन लोगों की कैटेगरी में तो नहीं आता है जिन के बारे में कहा गया है कि इन इन को लाइसेंस नहीं मिलेगा और इन सब चीजों के बारे में उससे एफिडेविट लिया जा सकता है और लाइसेंसिंग आयोगिटी उसको उसके बाद लाइसेंस दे सकती है। अगर ऐसा हो जाए तो पुलिस अफमर के पास जानने की दिक्कत से बचा जा सकेगा।

मैं आपको बतलाना चाहता हूँ कि अब तक का तजुर्बा तो यह रहा है कि थाने में पुलिस के पाम जब बेस चला जाता है, जब उसके पाम दरख्वास्त चली जाती है तो जो दरख्वास्त देने वाला होता है वह डबर में उधर भागता है और कुछ न देकर ही वही में रिपोर्ट निकल पाती है। कम से कम उत्तर प्रदेश के बारे में यह बात कह मय ता है कि वहाँ पर पुलिस में बेस के जाने के बाद मौ में मे एक बेस ही ऐसा होगा है जिन में बिना रिटवन के काम चल जाता है बाकी सभी केगा में रिटवन ली जाती है और बिना रिटवन के काम ही नहीं होता है। बिना रिटवन लिए पुलिस-रिपोर्ट ही नहीं बनती है। मैं चाहता हूँ कि अगर गृह-मंत्री महादय गुज पर विधायन नहीं करने हैं तो वह इसकी जाच करवा कर देख लें।

आप कानून बना रहे हैं लेकिन इस पर अक्स की जिम्मेदारी दूसरों पर होगी। आप यह कह सकते हैं कि राज्यों की पुलिस क्या करती है यह हमारी जिम्मेदारी नहीं है क्योंकि यह राज्यों का विषय है। लेकिन इस तरह की बात कहना ठीक नहीं है। आप कानून ही इस तरह से बनाये जिससे कि इस तरह की बातों की सम्भावनायें कम हो जाएं।

उन भाषणों में यहाँ पर लाइसेंसिंग आयोगिटी को कुछ देखा नहीं है, केवल यही

देखना है कि प्रीवियस कनक्विट तो नहीं है, ११७ में बाउंड डाउन तो नहीं है या और किसी तरह से लाइसेंस पाने का हकदार तो नहीं है और में सब चीजें देखने के बाद और उससे एफिडेविट ले लेने के बाद, में समझता हूँ कि किसी तरह की तहकीकात की जरूरत नहीं होनी चाहिए। अगर वह गलत एफिडेविट देता है तो उसके खिलाफ दूसरी कार्रवाई हो सकती है।

इस वास्ते में कहना चाहता हूँ कि गवर्नमेंट सोचे कि इस कानून के जो मिसपूज होने का खतरा हो सकता है, वह न रहे और लोगों को आसानी से लाइसेंस मिल जाए, उनको दिक्कत का सामना न करना पड़े।

Shri Mulchand Dube: I have moved an amendment No. 106, to clause 13. What happens is that when an application for licence is made, it is sent first to the Sub-Divisional Officer and then to Tehsildar, to the Kanungo and then to the Patwari. There is a second line where it is sent to the Superintendent of Police, and then to his Deputy, then to the Circle Inspector and then to the Sub-Inspector of Police and so on. This takes a lot of time; sometimes it takes six to eight months. After all this is done the licensing authority sometimes, whimsically, without any reason, arbitrarily says that the grounds are not genuine and refuses the application. The conditions are set forth in clause 9. If a man files an affidavit that he does not suffer from the disabilities mentioned in clause 9, there is no reason for the licensing authority to refuse the licence because if he submits a false affidavit he can be prosecuted. There is also power given to the licensing authority to cancel the licence if on a subsequent date he comes to the conclusions that the man concerned has submitted a false affidavit and that he is not a fit person for grant of a licence. Clause 14 also seems to

provide for the refusal of a licence. Clause 14 seems to refer to cases which are within the personal knowledge of the licensing authority. It is also stated there that the fact that a person has or has not any property shall not be taken into consideration in refusing a licence. Therefore, if the question of property does not come in and the man concerned files an affidavit that he does not suffer from any disqualification specified in clause 9, I do not see any reason why there should be any enquiry and the consequent delay. After all, our object is to liberalise the grant of licences. My submission to the hon. Minister, therefore, is that he may kindly think over this and accept this amendment which appears to me as perfectly harmless. It does not harm anybody in any way; on the contrary, it promotes the object for which the present Bill has been introduced.

श्री हेम राज : उपाध्यक्ष महोदय' इस क्लॉज १३ में मेरी दो छोटी-सी एमेंडमेंट्स हैं। इस क्लॉज की सब-क्लॉज ३ का जो ए है उसकी लाइन १० में मैं यह चाहना हूँ कि मजल लोडिंग गन के बाद बोर गन भी जोड़ दी जाए। अगर यह कर दिया जाए तो जो प्राविमो दी हुई है उसकी जरूरत नहीं रहेगी और उसकी डिवाइस करना होगा।

इस एमेंडमेंट को देने का मेरा मकसद यह है कि हम एक तरफ तो यह चाहते हैं कि जो खेती की पैदावार है वह बड़े और जो खमीदार है उसकी ज्यादा से ज्यादा सहायता की जाए ताकि वह ज्यादा गन्ना पैदा कर सके। एक तरफ तो हम यह चाहते हैं कि वह ज्यादा गन्ना पैदा करे और ज्यादा से ज्यादा मेहनत करे लेकिन दूसरी तरफ हम उस पर विश्वास करने के लिए तैयार नहीं हैं। हम उसको मजल लोडिंग गन देने के लिए तो तैयार हैं लेकिन दूसरी जो बोर गन उसका लाइसेंस देने के लिए तैयार नहीं है। अगर उसको बोर गन लेनी हो तो उसके लिए हमने प्राविमो जोड़नी है और कह दिया है कोई खास खास

बयूहति यदि होगी तभी बोर गन का लाइसेंस दिया जाएगा।

मजल लोडिंग गन की हानत क्या है? जो पहली इन्फैंट होता है वहाँ यह हालत है कि बारिश सब से ज्यादा होनी है, सब से ज्यादा जगल बहना होना है, वहाँ पर बहुत ज्यादा बाइल्ड एनिमल्स होने हैं, दरिन्दे और दरिन्दे ज्यादा होने हैं और ये जो फसल होती है उसको तबाह कर देते हैं। इस वास्ते वहाँ पर मजल लोडिंग गन काम नहीं दे सकती है। मजल लोडिंग गन का तो यह हिस्सा है कि बन्दूक में छूरी भरने में कोई एक घंटा लग जाएगा और इस दौरान में उसकी सारी फसल तबाह हो जाएगी। इस वास्ते अगर आप चाहते हैं कि वह ज्यादा खाना पैदा करे तो आपको उस पर विश्वास करना चाहिए और उस पर विश्वास करने के लिए आपको उसे बोर लोडिंग गन का लाइसेंस देना चाहिए।

इस वास्ते मैं माननीय मंत्री महोदय से प्रार्थना करता हूँ कि जो सब-क्लॉज ३ है उसके पार्ट ए में बोर गन और जोड़ दिया जाए और इसमें जो मामला है वह ठल हो जाएगा और जो प्राविमो है उसकी आवश्यकता नहीं रहे जाएगी। इसमें उसके अन्दर यह भावना भी पैदा होगी कि उसमें और बहुरी में कोई भेदभाव नहीं किया जा रहा है और सब के साथ बराबरी का भत्का किया जा रहा है।

इस वास्ते मैं प्रार्थना करता हूँ कि बजाय प्राविमो के रखने के, तीन की सब-क्लॉज (ए) (१) में ही स्मूथ बोर गन जोड़ दिया जाए और मैं प्रार्थना करता हूँ कि माननीय मंत्री महोदय इसको स्वीकार कर लेंगे।

Shri U. C. Patnaik : Mr Deputy Speaker, Sir, I do not press the amendment, but I would bring to the notice of the hon Minister that there should be a line of distinction between the two classes of 22 bore rifles just as he has already agreed to re-

[Shri U. C. Patnaik]

cognise the difference between the two varieties of air-rifles. I hope he will draw a line of distinction between the rim-fire and the centre-fire, the second one being double the first one in velocity and range. This should be kept in mind while making concessions in favour of the rifle clubs, and it is for that purpose that I have brought in the amendment.

Shri Datar: Sir, the hon. Members who have moved amendments have made out three points. One point is that a time limit should be laid down for the purpose of disposal of applications for licences. The second point is that the persons who should not get licences should be specified, as suggested by my hon. friend Shri Patel. The third point is—it was pointed out by my hon. friend Shri Mulchand Dube—that the licensing authority should act on the basis of an affidavit. May I point out, Sir, that it is very difficult to accept these suggestions. It is our desire that even two months should not elapse after an application has been filed. As early as possible the matter should be enquired into, whatever information is necessary should be collected and either the application should be accepted or refused. An hon. friend suggested that the alternative of refusal should be thrown out altogether. It would not be proper to do so. There are a number of cases where such applications are made either on frivolous grounds or with a particular design to make a wrong use of such licences. That is the reason why there ought to be an enquiry by the licensing authority through the usual channel, and it would not be proper to lay down any particular period.

So far as Shri Patel's objection is concerned, he has used certain expressions which are not exactly of any accepted legal import. What he says is: "... to the conclusion that the applicant is a robber, thug, thief, anti-social or anti-national". These

expressions have not become legal expressions and unless they connote a particular legal import it is very difficult to accept these expressions. If they are used, perhaps they are likely to lead to harsh and injustice might flow from the orders passed by the licensing authority. Under these circumstances, let us leave the matter to the licensing authority himself. In clause 14 all the circumstances under which a licence can be refused have been specifically mentioned. Therefore, it would not be proper to specify the classes of persons who should not get a licence, especially by the use of such vague expressions.

My hon. friend over there suggested that an affidavit ought to be a sufficient compliance with the requirements for the grant of a licence. May I point out to him that an affidavit is an admission in one's own favour, and even persons having undesirable activities or persons like robbers and others will certainly file affidavits and try to add one more term of imprisonment to their numerous terms of imprisonment for making a false affidavit. That would not be a sufficient guarantee. Therefore, it is necessary that some sort of an independent enquiry should be made, independent of the admissions in his own favour by the person concerned. That is the reason why it is of great importance that some enquiry should be made. Then, as I have pointed out already, you will have ordinarily to give reasons and these reasons can be scrutinised by the appellate authority.

16 hrs.

Shri Hem Raj: What about licences in the hilly areas?

Shri Datar: So far as the hilly areas are concerned, we have made it clear that licences should be granted by an authority even subordinate to the district magistrate. That is the first thing. Secondly, in clause 13(3) (a) we have specially provided a

proviso where, if muzzle loading guns are not sufficient, the licensing authority may grant a licence in respect of any other smooth bore guns for protection.

Shri Hem Raj: In that proviso, instead of muzzle-loading gun, the other types must be specified

Shri Datar: We have put them in already. It is a matter of course.

Mr. Deputy-Speaker: I shall now put all the amendments under clause 13 to the vote of the House.

The amendments Nos 2, 3, 86, 27, 24, 66 to 68, 106, 35 and 36 were negatived.

Mr. Deputy-Speaker: The question is:

"That clause 13 stand part of the Bill".

The motion was adopted.

Clause 13 was added to the Bill.

Mr Deputy-Speaker: It was by a resolution of this House that the time for this Bill was extended up to 3 o'clock. After that I exercised my discretion and went on up to 4 o'clock. Now, my authority is also finished. I shall put all the clauses to the vote of the House. We must finish it now, I suppose. The question is:

"That clauses 14 to 46 stand part of the Bill"

The motion was adopted

Clauses 14 to 46 were added to the Bill.

"That clause 1, the Enacting formula and the long Title stand part of the Bill".

The motion was adopted

Clause 1, the Enacting Formula and the long Title were added to the Bill.

Shri U. C. Patnalk: Sir, I have only one point to make. It is true that we have all agreed that all the remaining clauses may be put together. But we may be permitted to place our amendments because we have been tabling the amendments clause-by-clause and the amendments may go into the record

Mr. Deputy-Speaker: There is no provision under which it can be done, I believe

Shri U. C. Patnalk: The Speaker was then in the Chair and he allowed us to move the amendments, under each clause, as it comes up. We pray that we may be allowed to move all the amendments. It is just to shorten time, and place them on the record

Mr. Deputy-Speaker: How is it possible to allow those amendments to be moved now?

Shri P. R. Patel: They may be taken to have been moved

Mr. Deputy-Speaker: All the clauses have been accepted by the House. If this thing had been brought to my notice earlier, perhaps I might have been in a position to accede to the suggestion that hon. Members now make. Now, it is too late. I am sorry

Shri Datar: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed.

The motion was adopted.