

them, if necessary. But this amending Bill is restricted only to one single item, and matters relating to rules do not come in here, nor does this amending clause give any rule-making power. It is only a notification. But anyhow I believe the hon. Members

Shri S. K. Patil. On behalf of the Government I have given a promise that when we come again with an amending Bill we shall include that. We will do it.

Mr. Speaker: Further, the Members concerned are not present.

The question is

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

The motion was adopted.

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

Shri S. K. Patil. I move that the Bill be passed.

Mr. Speaker: The question is

"That the Bill be passed."

The motion was adopted.

12.34 hrs.

ARMS BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): I beg to move:

"That the Bill to consolidate and amend the law relating to arms and ammunition be referred to a Joint Committee of the Houses consisting of 45 Members, 30 from this House namely: Shri Upendranath Barman, Shri Missula Surayanarayana-murti, Rani Manjula Devi, Shri Bibhuti Mishra, Shri Mohammad Tahir, Dr. Gopalrao Khedkar, Shri Chhaganlal M. Kedaria, Shri K. M. K. Abdul Salam,

Shri R. S. Arumugam, Shri Vidya Charan Shukla, Shri K. R. Achar, Shri Mathew Maniyangadan, Shri Bhakti Darshan, Shri Jagan Nath Prasad Pahadia, Shri Raghubir Sahai, Shri Ansar Harvani, Shri Devenapalli Rajiah, Shri Bangshi Thakur, Shri Radha Charan Sharma, Shri Satish Chandra Samanta, Shri Ranbir Singh Chaudhuri, Shri Hirendra Nath Mukherjee, Shri K. K. Warior, Shri Mohan Swarup, Shri Shambhu Charan Godsora, Shri Thakore Fatesinghji Ghodasar, Shri Uma Charan Pattnaik, Shri Atal Bihari Vajpayee, Shri Shankarrao Khanderao Dige and the Mover; and 15 members from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee,

that the Committee shall make a report to this House by the first day of the next session,

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make, and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

I am very happy to bring toward this Bill because after independence there had been a persistent desire that the old Act of 1878 ought to be materially amended so as to bring it in line with modern conditions. We had also a discussion in the first Parliament in 1953 when Shri Patnaik had brought forward a Bill. At that time the then Home Minister, Dr. Katju, had given an assurance that the whole question would be fully

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considered, the views of the State Governments and the public, if received, will be taken into account and a consolidating Bill dealing with all the aspects of this question would be placed before this House, and by way of implementing this assurance we have brought forward this Bill. We had before us the original Act of 1878; we had also certain provisions in the Acts of a number of foreign States like the United Kingdom, United States of America, France and others. Then we consulted the State Governments at various stages; first, in a general way and then in respect of the provisions of the Bill as had been drafted. And after taking into account the need for making changes in the Act of 1878, also the need to improve upon them to the extent that it is possible, and after consulting the State Governments, the present Bill has been brought forward, and I am confident the hon. House will find that there are a number of measures which are of a liberalising character. Therefore, I should like to place before this House in as brief a manner as possible the history of the Arms Act legislation in India and how there are a number of features in the present Bill which are, I am confident, of a fairly liberalising nature and are such that they would meet with the approval of this hon. House.

I would not go into the details of the various clauses because, as I have already pointed out, this Bill has to be referred to a Joint Committee, and the hon. Members of the Joint Committee will go into all these provisions and make such amendments as they deem fit after considering all the questions relating to the Arms Act.

Now, so far as this legislation is concerned, during the British administration we had formerly the Act of 1880 (Act No. 31 of 1880). Naturally, the object was to place as much a measure of restrictions on the exercise or use of arms and ammunitions. This Act was followed up by another Act, that is, Act 11 of 1878

This is what is popularly called the "parent Act" though in this case, as I shall be pointing out, we are going to have a clause in this Bill according to which all the provisions of this Act of 1878 have to be replaced and a new measure, or a new consolidating and amending Bill, will have to be considered by this hon. House and then by the Joint Committee. Now it is not necessary to point out the purposes that the framers of these Acts had. I would, however, point out how the Act of 1878 had two objects in view. I am mentioning these circumstances because we are going, to a large extent, from the object that they specifically had then.

The Act of 1878 provided *inter alia* for (1) the imposition of duties on the importation of arms; (2) prohibition of possession of fire arms and "going armed" with any arms—the House will kindly understand the wide terms used in this particular Act, and the purposes behind it—without licence throughout the country; (3) the prohibition of possession of all arms. Here, in this case, you will find that we have a liberalising measure by which ordinarily licences are required only for fire arms. But there the prohibition was in respect of possession of all arms without licence in any area notified in the Official Gazette and also in the areas which were disarmed under the earlier Act.

The reasons given by the then British administrators was, firstly, to ensure stricter control over the import of cheap fire arms and, secondly, to restrict and regulate the transfer of fire arms so as to prevent their reaching the hostile tribes beyond the frontier or the criminal elements within this country. Therefore, this Act was long in use and after this Act was passed, naturally Arms Rules had been framed.

So far as these rules are concerned, they dealt with a number of matters, which ordinarily ought to

have been provided for in the Act. All the same, we had these Indian Arms Rules. They were amended as a result of the report of a committee appointed by the then legislature known as the Imperial Legislature in 1922. A committee of officials and non-officials had been appointed and they had made certain recommendations. Some of them the then Government accepted and so, the Arms Rules were amended in 1924.

After the attainment of independence, we have amended the Rules to a certain extent but now we feel that it would be better to have the Act itself amended so that the main important principles on which the arms legislation has to be founded will have been properly laid down in the provisions of the Bill itself. Naturally, thereafter we have taken to ourselves the power to make rules. The copies of these rules will, according to the present custom, be placed before both the Houses for such consideration as they might deem fit to give.

This is the background. Then, as I pointed out earlier, in 1953, an hon. Member, Shri Patnaik, had introduced a Bill. The main objects that he expressed then were: firstly, relaxing the restrictions so as to bring the arms law in conformity with the arms laws of other countries. This particular object has been taken into account and, as the hon. House will have found, there are a number of improvements made and introduced in this Bill on the model or the basis of similar provisions or better provisions in the Acts of the countries to which I have just now made a reference.

The second object was: liberalising the Arms Act and the Rules for the purpose of allowing certain categories of peaceful citizens. He wanted that the hon. Members of Parliament or of State legislatures should be allowed to possess or hold arms without any permission or licence, that is, to possess arms for self-defence without

the necessity of obtaining licences in respect of them.

Then, when the Bill came up for consideration on the 9th April, 1954, an assurance was given that the Government would themselves bring forward a fresh Bill. Therefore, this Bill has been brought forward.

I may also point out that Government received a number of suggestions. In fact, the National Rifle Association of India had prepared, what they called, a Firearms Bill. They sent not only the Bill, but their comments also. After taking into account all those comments as also the provisions in the other countries' laws, we have brought forward this measure.

So far as the main provisions of the Bill are concerned, may I point out that we have maintained before ourselves two object that ought to be placed before us and to which Shri Patnaik had made a reference. One was the liberalisation of licensing provisions. To the extent that they could be liberalised, they have been liberalised. As you will see, the attitude that has to be taken under the provisions of this Bill is normally to grant a licence. That is how a positive and a constructive approach is being made so far as the applicants for a licence are concerned.

On the other hand, as you are aware, we have also to find the mean between two views. One is consistent with the needs of national security—that is one—the second is consistent with the needs of a proper maintenance of law and order and the third is consistent with the need that such arms and ammunitions do not reach quarters which are antisocial in nature. All these have also to be taken into account. Therefore, while the policy of liberalisation will be followed, there have to be some restrictions to which I shall be making a reference as I proceed further on.

Then, with this background, may I point out the broad features of the new Bill that we have placed before:

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this House. Formerly, as I have pointed out, in respect of all arms, that is, fire-arms and other arms like swords etc., there was a uniform need according to the then law to take a licence. Now, what we have done is that we have followed a liberalising measure in the sense that so far as firearms are concerned, naturally, licences are required. Licences have to be taken for all firearms whenever an applicant is desirous of possessing one. Now, in respect of those arms, which are not firearms, normally no permission or licence is necessary at all. A man can have them if he likes, provided they are not firearms. But in respect of all these arms there are occasions where or there are areas where it is necessary to control them, as for example during emergencies or whenever there are, what can be called, danger spots where even the other arms, in respect of which normally no licence is necessary, are likely to be abused or are likely to endanger the safety of the peaceful citizens of India. Therefore, the general policy is that licences would be required only in respect of firearms, but in emergencies or in places where conditions are far from normal licences will have to be insisted upon for possessing all arms. Therefore you will find that this is one of the most forward steps that we have taken subject to the need to tighten the measures specially when there are circumstances calling for the exercise of emergency powers.

Then, you will also find that the approach generally would be, in respect of firearms or in respect of those arms for which a licence has to be taken, as I have pointed out above, that licences would be freely granted. We have also taken into account the needs of the cultivator to have not only his personal protection but also the protection of the crops. For that purpose for certain types of arms he can take a licence.

Similarly, also there would be licences so far as clubs are concerned. We are anxious, as the House is aware, that rifle clubs are started in

different parts of India and we shall be happy to give them recognition provided they comply with the usual conditions in this respect. Happily, we are having rifle associations or clubs in numerous parts of India. Their number is gradually rising. Therefore, so far as the bona fide members of such clubs or associations are concerned, they will also be entitled to certain types of arms to which a reference has been made in the body of the Bill.

Even in respect of revolvers and rifles, though naturally one has to be careful still the licensing authority will have a greater discretion for the purpose of giving such licences. The approach would be to grant licences except where there are circumstances with reference to which the officers will have to proceed rather cautiously. That also has been mentioned in the body of this Bill.

Then, another very important and liberal departure that has been made from the parent Act is that in the former Act, as you are aware, as also in the rules, generally, licences were granted in respect of arms to persons who were then called stakeholders, in the sense that they possessed property. This property consideration was availed of and oftentimes, those who were not stakeholders in this sense, could not get such a licence even though otherwise they were entitled to it. This particular consideration, namely, disqualification due to want of property with a particular person, is considered, naturally, in the present times, an outmoded condition and therefore, that has been dispensed with. This is a measure which the House will kindly take into account.

Another provision that we have introduced with all its details is that in all such cases wherever licences are asked for or wherever any action has to be taken under the Arms Act or the Arms Rules, the orders that have to be passed have to be passed after giving the person an opportunity to know why a refusal is likely to be given. You will find that in all cases,

they are not exactly judicial, but they are at least quasi-judicial and therefore, normal principles of jurisprudence, especially, equitable jurisprudence have to be followed. Therefore, it has been laid down that when a licence has to be refused, the licensing authority has to give reasons except in small or selected class of cases where the reasons could not be disclosed in the public interests. Except in these circumstances, normally, when a licensing authority is going to refuse an application, he has to give reasons in writing and he has to furnish copies of these reasons to the person whose application is going to be rejected. The object is that in such cases, he could approach the higher or appellate authority. May I point out here, specific provision has been made for an appellate authority, namely, that against all such orders of refusal, it will be open to the aggrieved party to prefer an appeal. As the House will find, provision has been made that in the appeal no order can be passed by the appellate authority without giving the person concerned, namely, the appellant, an opportunity of being heard in respect of his petition or appeal. These are normal rules of judicial administration. It was considered that they are very advisable rules meant for the purpose of carrying out justice and therefore provisions have been specifically introduced in the Bill itself that so far as appeals are concerned, so far as recording of treasons are concerned, in all these cases, the man will have to be heard before the appeal comes to be dismissed.

We have also made it clear that whenever there are any arms which have become very old, which are obsolete or which are unserviceable, in respect of them, there will be no need for asking for any licence. Often-times, difficulty was felt when these arms had to be carried to another place, for repairs or for other work. When a man was going to a sport, they had to be carried. Often-times, technical difficulties arose where even

a servant or agent could not carry these arms because they were not licence-holders. That difficulty, more or less of a technical nature, has been got over by saying that it would be open to an agent or servants to carry these arms while the licence-holder is there or in his absence also, with his written authority. That has been purposely put down to get over difficulties that are often felt.

So far as the period of licence is concerned, generally, it was one year till now. We have considered that when once a licence has to be given, normally the period should be three years though in certain cases, an applicant for licence himself might ask for a smaller period. But, the normal period would be three years and this period would be renewed for an equal period unless there are any reasons to the contrary. This also may be taken into account.

Whenever any arrests are to be made or seizures in respect of such arms which are not held properly or where there are other circumstances exciting the suspicion of the authorities that they are likely to be abused, in all such cases, a certain procedure has to be followed. The provision according to the present Bill is, the one laid down for arrests and seizures under the normal criminal law. That has also been introduced.

We have also introduced here and there a number of checks on the orderly exercise of powers by certain officers, because, it is essential that in proper cases, every attempt should be made to grant a licence and not to subject the holder of the licence to unnecessary harassment. That is the object that we have kept in view. These are the principal and important features. I might point out here that we have introduced certain safeguards also.

These arms, especially these firearms are of a dangerous character and they are easily likely to be abused to the great harm, perhaps, even to the holder of the licence himself, as

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also to others. Therefore, while, on the one hand, you have to liberalise the provision, because the citizens of India would be entitled, in proper cases, to hold arms, the Government have to take into account the possibility of prohibiting certain categories of persons from getting or applying for such licences. Take, for example, minors. It will be very difficult and dangerous to entrust minors with such arms. Similarly, there might be criminals who have undergone a sentence of six months or more. In that case also, one has to be careful. So that if there are criminals, especially those who are convicted by a court of law for an offence dealing with either moral turpitude or similar matters dangerous to security or to the maintenance of law and order in India, we have to be careful that criminals ought not to be allowed to get licences.

Similarly, also, in the case of machine guns and other big guns, one has to be extremely careful and, naturally, restrictions have to be placed. In all these cases, often, a question arises, as a number of hon. Members who have practised in the criminal courts are aware, these dangerous weapons are used and it becomes difficult to identify them. On account of lack of identification, often-times, the quality of evidence that is led against the criminal is likely to suffer. For that purpose, it has been laid down that in all these cases, there ought to be proper identification marks on all fire-arms.

Power has been reserved to the State to control manufacture and movement of arms. This is absolutely essential. There are certain offences where, if they are proved, heavier punishments ought to be provided.

Incidentally I may point out, when there is a second conviction in respect of an offence under the Arms Act, naturally, the quantum of punishment or penalty ought to be far larger because, in that particular case, when

a second conviction is passed, there is no defence of the act having been done in extenuating circumstances.

13 hrs.

That is the reason, Sir, why we have followed this policy. Whenever an offender commits an offence again, naturally, in such a case he is liable to get higher punishment. That principle has already been introduced in certain acts. It has also been introduced in this Act.

The next question relates to whether certain categories of persons should be excluded. You are aware that either under this law or under our treaty or covenant or under international principles certain exemptions are allowed. Now we have laid down one proviso according to which it will be examined whether grant of such exemption is essential. We consider whether it is necessary or advisable in the public interest to grant such exemptions. That also has been laid down.

May I be permitted to point out, Sir, in this connection that one of the principal objects that we have kept before us is to avoid all avoidable inconvenience to the public. There are certain inconveniences which are no doubt inevitable. Apart from those inconveniences, we have, as far as possible, tried to remove the inconveniences because the independent citizens of India are entitled to ask for licences and they are entitled to expect from the authorities due regard to their conveniences. On that account, a number of improvements have been laid down. Of course, whenever there is a case for arrest, arrest has to take place, but only when it is absolutely essential and not as a matter of course, and also not immediately. Then, Sir, as you are aware, after seizure, a final order has to be passed as to what is to become of these seized arms or other articles. The general rules that was followed was that they were forfeited as a matter of course to the Government. Now, in

such cases also, Government allow the private parties some time to make applications. Opportunity is given to all such claimants to put in their claims. So, now you will find that there will be no automatic seizure

Provisions have been laid down for the purpose of minimising inconvenience. It has been laid down that whenever there are certain offences, in respect of such offences, punishments or penalties have been provided for. If they are of a serious nature, in that case, special provisions have been laid down in respect of those cases under Clause 3 of the Bill. In those cases, the previous sanction of the district magistrate is essential. This gives scope for the purpose of finding out whether there is any *prima facie* case at all. Otherwise, often times, people are likely to be harassed and even if ultimately the person is acquitted, he has still to pass through certain ordeal and trouble. For that purpose it has been laid down that in certain cases the sanction of the district magistrate is essential. These offences are being taken cognisance of by courts.

There are certain other new features in the Bill. For example, we have given specific definition of arms and ammunitions. We have excluded articles which are not intended to be used as arms. We have introduced additional punishment in respect of certain offences. We have introduced the provision according to which companies also are liable to be dealt with under this provision. This is made applicable to the directors, partners etc. and they would also be liable to this provision. This provision has been added because often times companies deal with arms and not necessarily in all cases in a proper manner. Therefore it has been considered necessary to bring the companies also into the orbit of the provisions of this law. In that case also, as the House will see, it has been pointed out as to how the matter has to be proceeded with.

Then, Sir, often-times tourists come to India and they require licences

Now provision has been made for tourists as well.

Thus you will find that the restrictions that have been placed, have been kept at the minimum. The interests of security and the maintenance of law and order have to be taken into account and have to be constantly kept in view because here we are not dealing with ordinary articles but with articles which are prone to cause death or injury to a large number of persons. Therefore, we have to keep restrictions wherever there is necessity for those restrictions. As I have pointed out, we have been keeping minimum restrictions. You will find that we have liberalised the measure for the purpose of enabling more persons to get licences. We have also provided against any inconvenience or harassment likely to be caused to applicants. These are the main provisions which have been introduced in the Bill. These will be scrutinised and it would open to the Joint Select Committee to go into all the questions bearing on this matter.

Then, Sir, before I close, I would like to make a reference to an amendment that has been suggested by an hon. Member that Shri U C Patnaik's bill might also be referred to the Joint Select Committee. I have made the whole position quite clear. It would be open to the Joint Select Committee to examine the provisions of his bill as well. It is not formally possible for us to make that reference because that would mean that we accept the principle underlying the bill. That is why I pointed out that it is open to the Joint Select Committee to consider his bill without such a formal reference because making of a formal reference would commit this House and the Government to the principle of that bill. To a large extent we have followed what he wanted, but I would like to point out that it will certainly be open to the Joint Select Committee to consider not only the provisions in this bill but also the provisions in his bill and such other matters as they might like to consider. Therefore, there would be no need perhaps for

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this amendment. There are certain technical difficulties in accepting this amendment, and I am confident that in the light of the elucidation that I have offered, this particular amendment will not be pressed.

Sir, I move.

Mr. Speaker: Motion moved:

That the Bill to consolidate and amend the law relating to arms and ammunition be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely;—

Shri Upendranath Barman, Shri Misula Suryanaranamurti, Rani Manjula Devi, Shri Bibhuti Mishra, Shri Mohammad Tahir, Dr. Gopalrao Khedkar, Shri Chhaganlal M. Kedaria, Shri M. K. M. Abdul Salam, Shri R. S. Arumugam, Shri Vidya Charan Shukla, Shri K. R. Achar, Shri Mathew Mapiyangadan, Shri Bhakt Darshan, Shri Jagan Nath Prasad Pahadia, Shri Raghubir Sahai, Shri Anwar Harvani, Shri Devanapal Rajiah, Shri Bangshi Thakur, Shri Radha Charan Sharma, Shri Satis Chandra Samanta, Shri Ranbir Singh Chaudhuri, Shri Hirendra Nath Mukerjee, Shri K. K. Warior, Shri Mohan Swarup, Shri Shambhu Charan Godsora, Thakore Shri Fatehsinhji Ghodasar, Shri Uma Charan Patnaik, Shri Atal Bihari Vajpayee, Shri Shankarrao Khanderao Dige and Shri B. N. Datar and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of the members to be appointed by Rajya Sabha to the Joint Committee.

Shri Easwara Iyer (Trivandrum): The hon. Minister in charge of this Bill has stated that he is rather happy about the introduction of this Bill.

Shri S. C. Samanta (Tamluk): I have got an amendment to the original motion.

Mr. Speaker: The hon. Minister has already explained the position.

Shri S. C. Samanta: He has stated that he is not willing to accept it. Still, we have got to say something in regard to it.

Mr. Speaker: Even though the hon. Member does not move the amendment, I shall give him an opportunity to speak. Does he want to move the amendment?

Shri S. C. Samanta: No.

Mr. Speaker: I shall give the hon. Member an opportunity to speak.

Shri Easwara Iyer: The Statement of Objects and Reasons appended to the Bill says that the attempt of the Bill is to liberalise the policy of Government in regard to the grant of licences for firearms. It really says that the Arms Act of 1878, which had been enacted about eighty years ago had adopted the policy of negating the giving of firearms, but since Independence, it must be the policy of Government to liberalise the giving of licences.

But on going through the provisions of the Bill, I do not feel very happy. It contains so many checks and counter checks, to such an extent that it is left to the arbitrary discretion of a licensing authority to disallow the grant of licence.

Since the Bill is going to be referred to a Joint Committee, I shall not take up the time of the House by dealing with the provisions one by one, but I shall suggest my amendments when the Bill emerges from the Joint Committee or before the Joint Committee. But, having an overall picture of this entire enactment along with the private member's bill introduced by Shri U. C. Patnaik, I would respectfully say that this Bill is no improvement on the Indian Arms Act of 1878.

In fact, the definitions of arms and firearms are so vague and so indefinite that it is open to the licensing authority to say that for arms of a particular description, or firearms of a particular description licences shall not be granted. If we look at the definition in clause 2 (c) we find:

"'arms' means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, 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 and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons;"

I am really happy that the hon. Minister would say that domestic and agricultural weapons such as knives, table-knives or even forks may not come within the definition of 'arms' under this clause. But what exactly does the definition mean when it says 'sharp-edged weapons'? How are we to understand whether a sharp-edged weapon is really intended to be used for domestic or agricultural purposes? Who is to determine this? Is it for the licensing authority to determine whether a sharp-edged pen-knife or a sharp-edged needle or—I would even go to the extent of saying—anything coming within the description of an axe etc. will come within the scope of this definition or not?

Mr. Speaker: Does the hon. Member mean domestic implements?

Shri Easwara Iyer: I am submitting that it is left to the subjective satisfaction of the licensing authority to find out whether a particular class of weapon is an implement used for domestic or agricultural purposes.

It is generally known that a pen-knife or a table-knife is used for domestic purposes. But suppose it is in the nature of a dagger; it is open to any person to have a particular design for his own domestic implement, and suppose it is in the nature of a dagger. Is it not open to the licensing authority to say that it comes within the mischief of this definition of 'arms'?

Coming to clause 4, we find that it reads thus:

"If the Central Government is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest that the acquisition, possession or carrying of arms other than firearms should also be regulated it may, by notification in the Official Gazette, direct that this section shall apply to the area specified in the notification, and thereupon no person shall acquire, have in his possession or carry arms of any description in that area unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder."

I am not saying that in any particular contingency, the Central Government should not be enabled to prevent the use of arms. What I am submitting is that when a notification of this nature as contemplated in clause 4 is issued by the Central Government, it will be open to the subordinate officers who are to implement the authority of the Central Government to say that any particular weapon of any description innocently carried by a person

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comes within the definition of 'arms' Even in the Indian Arms Act of 1878 it is said 'Arms such as swords, daggers, bows and arrows etc.', but here a wide definition seems to have been given. With very great respect, I would say that the subsequent clause regarding the exemption of domestic or agricultural implements is only an eye-wash. The provisions of the Arms Bill are more stringent than the provisions in the Indian Arms Act which, the hon. Minister would also concede, had been enacted to disarm the dependent nation, as we were then.

There is another provision which is likely to cause some difficulty. In regard to the powers of the licensing authority, the hon. Minister was pleased to say that the granting of the licence is the ordinary rule, and the negating of the licence would be an exception. Clause 13 says:

"The licensing authority shall grant—

(a) a licence under section (3) where the licence is required."

Certainly the wording is very happy, but the effect of clause 13 appears to be taken away by clause 14, which states that notwithstanding anything in section 13, the licensing authority shall refuse to grant a licence on grounds enumerated therein. The grounds for refusal are very elaborate. If you look at clause 14(1) you will find that the licensing authority can refuse a licence where he deems it necessary for the security of the public peace. It is open to the licensing authority to say that the grant of a licence to a particular person is against the interests of the security of the country. It is left to the subjective satisfaction of the licensing authority to determine whether the grant of a licence to a particular person is against the interests of the nation or against the interests of the public peace.

It is also stated in clause 14(1) that the licensing authority can refuse to grant a licence to a person whom he deems to be for any reason unfit for a licence under the Act. So, if a person is considered unfit to have a licence by the licensing authority, he can refuse to grant a licence. So, the statement of the hon. Minister that granting of licence would be the rule is illusory in the light of the provisions of clause 14.

He may say that he has recognised the well-known principles of jurisprudence in saying that where there is a refusal, a written order stating the grounds of refusal should be made. So far as I have understood natural justice, it is not giving reasons for the refusal that is the equitable rule of jurisprudence, but giving an opportunity of being heard before the refusal is made. If I have understood the principle of natural justice properly, it is that no person shall be condemned without being heard, so that if the licensing authority comes to the conclusion that a person is unfit to hold the licence, he must give a reasonable opportunity to that person to be heard before refusing the licence.

I am certainly aware of the provisions in the Bill by which the appellate authority should grant the appellant a reasonable opportunity of showing cause against the proposed order be made in clause 14 itself under in appeal. But why not a provision be made in clause 14 itself under which the licensing authority proceeds to refuse the licence?

These are all restrictions which have been imposed, and however well-meaning the hon. Minister may be, it is open to arbitrary authorities acting in a capricious manner, as we know they do more often than not, to refuse fire arms.

I am not very much aware of conditions in northern India, but in the place from where I come the need for rifles of a particular bore which may not be a high calibre, to prevent

damages to agricultural crops from wild beasts is very great. We find the peasants and agriculturists are put to great hardship by the non-grant of licences for possessing fire-arms of the nature of shot bore guns or muzzle-loading guns. Of course, there is a tirade against shooting monkeys and exporting them, but we know more often than not of monkeys, wild boars, tigers coming and ruining the crops, and when the licensing authority sits tight over the matter and says that the particular person is an anti-social element, that he belongs to the Communist Party or the PSP or the Congress, that he is a political campaigner and gets into scrapes and other things and refuses the licence on these grounds, the bona fide agriculturists are put to great hardship. So, how far the Bill is seeking to set right affairs is a matter which may be considered by the Joint Committee. So, I would submit that the Joint Committee may take into consideration the question of relaxing the rigour in giving the licence, or even taking away some of the rigorous provisions in clause 14.

I have nothing further to say in this matter because I am perfectly aware that the Joint Committee has to consider this Bill in all its aspects, and there will be an occasion for me to move amendments, but I would say that although the hon. Minister professes that this Bill seeks to amend and consolidate the Arms Act so as to liberalise the policy, a reading of the provisions of the Bill makes me come to the conclusion that it has more rigorous provisions than the Act of 1878, and does not compare favourably with the Bill that hon. Member, Shri U. C. Patnaik, has moved in this House. I would respectfully commend for the acceptance of the House the liberalised provisions contained in the Private Member's Bill.

Mr. Speaker: Shri. Braj Raj Singh. A number of hon. Members seem to be anxious to speak.

Shri S. C. Samanta: I do not want to speak on the Bill, only on the reference to the Joint Committee.

Mr. Speaker: Hon. Members will confine their remarks to ten or fifteen minutes.

An Hon. Member: The time for the Bill is four hours.

Mr. Speaker: Three hours.

श्री बजराम सिंह (किरोवाबाद) :
अध्यक्ष महोदय, जहाँ तक हथियारों से सम्बन्ध रखने वाले कानून का सम्बन्ध है, इसका सीधा असर देहातों में रहने वाली जनता पर पड़ता है और देहात की जनता को जो तकलीफ अब तक हथियारों के लाइसेंस लेने में रही है, उसको दूर किया जाना बहुत आवश्यक था। हिन्दुस्तान के आजाद होने के बाद यह बहुत जरूरी था कि उसकी इस तकलीफ को दूर किया जाता और जब इस बिल के लाये जाने की चर्चा थी तो आशा की जाती थी कि कुछ इस तरह की व्यवस्था इस में की जायेगी जिससे कि वह बीमारी और वह भ्रष्टाचार जोकि अब तक हथियारों के लाइसेंस देने के सम्बन्ध में होता है, वह खत्म हो जाये लेकिन मुझे दुःख के साथ कहना पड़ता है कि जो व्यवस्थाये इस कानून में की गई है, उन व्यवस्थाओं से हम उस भ्रष्टाचार को जोकि आज हिन्दुस्तान में इसके बारे में व्याप्त है, सम्भवतः खत्म नहीं कर सकेंगे।

माननीय श्री महोदय की तरफ से यह कहा गया है कि लोगों को अधिक सुविधायें दी जा रही हैं, अधिक सुभीता रहेगी हथियारों के लाइसेंस लेने में। लेकिन इस कानून में इस तरह की व्यवस्था भी है कि जिस से जनता को बिना किसी तरह का कोई कारण बताये हुए सिर्फ इस बात पर कि कहीं पर आपत्ति भंग होने का आदेश है, हथियारों के लाइसेंस देने से रोका जा सकता है। मैं निवेदन करूंगा कि अभी भी हमारे यहां कुछ ऐसा इलाका है और वह बहुत बड़ा इलाका है कि जिसमें अक्सर डकैतियां पकड़ी रहती हैं, जिस के बारे में कहा जाता है कि वह डकैतों का इलाका है और जहां पर जनता को नुट लिया जाता है। यह इलाका न केवल उत्तर प्रदेश में है बल्कि

[श्री बजरान सिंह]

मध्य प्रदेश और राजस्थान में भी है। इस इलाके में जो लोग रहते हैं, उन्हें हमेशा ही यह खतरा रहता है कि उनको पता नहीं कब उर्कत लोग आ कर लूट ले जायें या कब आकर उनको मार डालें। अभी एक सप्ताह की बात ही हुई है कि उत्तर प्रदेश के भागना जिले की बाह तहसील के एक गांव में ४० लोगों ने जिन के पास गैर-कानूनी हथियार ही कहना चाहिये, वे, लूट लिया और हथियारों कर दी। रोजमर्रा कहीं न कहीं इस तरह की घटनायें होती रहती हैं। चम्बल के आस पास का जो इलाका है, उसमें भी इस तरह की घटनायें होती रही हैं। इस वास्ते आवश्यकता इस बात की है कि इन इलाकों में रहने वाले लोगों के लिए सुरक्षा का इतिजाम होना चाहिए। ऐसे लोगों को लाइसेंस दिये जाने चाहिये जो इन इलाकों में रहते हैं। इस बिल के कानून बन जाने के बाद भी ऐसे लोगों को लाइसेंस दिये जायेंगे, इसमें शन्देह ही है। जब भी किसी को लाइसेंस देने की बात आयेंगी तो सब से पहले लाइसेंस देने वालों के दिमाग में यह बात आयेंगी कि जिन को लाइसेंस दिये जा रहे हैं वे कहीं ऐसे व्यक्ति तो नहीं हैं कि उनका सम्बन्ध किसी तरह से डकैतों से हो या उनसे किसी प्रकार के हथियार या ये एम्पुनिशन डकैतों के पास चला जाये और इस तरह से वे लोग इसका दुरुपयोग करे। मैं स्पिरिट में कम से कम इस बात को मानता हूँ कि इस तरह की व्यवस्था होनी चाहिए कि डकैतों के पास किसी तरह का एम्पुनिशन या हथियार न पहुँच जाय, लॉगन जो इतना बड़ा डिस्ट्रिक्शन आप लाइसेंसिंग प्रचारिटी को देते हैं, इस नाम पर कि शांति और व्यवस्था को कायम रखा जा सके, इस से इस बात का पूरा भौका हो सकता है कि लाइसेंस न दिया जाये। मेरा निवेदन यह है कि जब यह बिल भ्रमल में आयेंगा तो जिस व्यक्ति के खिलाफ लाइसेंसिंग प्रचारिटी होगी, या जिस व्यक्ति के खिलाफ वह लोग होंगे जो रिपोर्ट करने वाले होंगे, खास तौर पर पुलिस के लोग, वह उस व्यक्ति को लाइसेंस

देने से इनकार कर सकते हैं। खास तौर के इसलिए कि इस बिल के क्लॉज १४ के सबक्लॉज ३(२) में लिखा हुआ है

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यह एक बहुत ही विस्तृत चीज है और जब भी लाइसेंसिंग प्रचारिटी चाहे ऐसा वैसा कारण दे कर कह सकती है कि फला व्यक्ति को लाइसेंस नहीं दिया जायेगा।

भाषा की जाती थी कि कानून यह बनाया जायगा, कि आजाद हिन्दुस्तान, का आजाद नागरिक अपने पास हथियार को रख सकेगा और अपवाद सिर्फ यह होगा कि जो ऐन्टी सोशल एलिमेंट्स हैं, जो इस तरह के लोग हैं जिन को हथियार नहीं दिया जाना चाहिए, और जिन की एक लिस्ट बनाई जायगी, उन को हथियार नहीं दिये जायेंगे। लेकिन इतने बड़े इन्तजार के बाद भी हम देखने हैं कि आज भी छोटे छोटे अधिकारियों पर यह छोड़ दिया जायेगा कि वे जिसे चाहें हथियार दिलायें और जिसे न चाहें उसे न दिलायें। आखिर लाइसेंसिंग प्रचारिटी क्या होती है? वह इलाके के थानेदार से रिपोर्ट लेती है कि यह किस तरह का आदमी है। इलाके का थानेदार रिपोर्ट कर देता है कि यह आदमी इस प्रकार का है जिस से कि शांति भग होने का खतरा हो सकता है और शांति भग होने के खतरे के कारण लाइसेंस देने से इन्कार किया जा सकता है। जब शांति भग हाने के खतरे की कोई परिभाषा नहीं दी गई है कि किस तरह शांति भग होगी तो किसी भी आदमी के लिए, खास तौर से राजनीतिक आदमियों के लिए कहा जा सकता है कि उस को हथियार नहीं दिया जाना चाहिए क्योंकि यह राज जनस निकालता है, सत्याग्रह करता है, जो वक्त की सरकार है उसे परेशान करने की कोशिश करता है और

उसके द्वारा शांति भंग होने का खतरा है। मैं निवेदन करना कि मंत्रियों के दिमागों में यह बात हो सकती है कि जो उन के राजनीतिक विरोधी हैं उन से शांति भंग होने का खतरा नहीं है लेकिन जो लोग इस कानून को भ्रमल में लायेंगे, खास तौर से थाने के थानेदार हाकिम परगना, जो कि लाइसेंसिंग अथॉरिटी होगी, या जिले के कलेक्टर, उन के दिमाग में यह बात स्पष्ट नहीं होती है कि राजनीतिक विरोधी क्या होता है। वे लोग यही सोचते हैं कि जो लोग सरकार के विरोधी हैं वही शांति भंग करने वाले हैं, और इन्हीं कारणों से बहुत से लोगों को लाइसेंस वही दिये जायेंगे। सिर्फ शांतिभंग होने के खतरे का बहाना ले कर, लाइसेंसिंग अथॉरिटी लाइसेंस देने से इनकार कर सकती है। मैं निवेदन करना कि हमेशा यही चीज भ्रमल में आती रहेगी कि जो राजनीतिक विरोधी है उन्हें हथियार दिये जाने की जरूरत नहीं है। यह चीज मैं बिना किसी आधार के नहीं कह रहा हूँ। अभी उत्तर प्रदेश के आगरा जिले में बड़ी हुई सिंघाई दरो के खिलाफ एक आन्दोलन चला। उस आन्दोलन में हमारे कुछ आदमी जेल गये, और चूँकि वह उस आन्दोलन में जेल गये थे इस लिए हमारे एक साथी का जो पिस्तौल का लाइसेंस था उसे वहाँ के जिलाधीश ने इस कारण खारिज कर दिया कि उस ने जो वक्त की सरकार है उस के खिलाफ एजिटेशन में हिस्सा लिया। हमें इस तरह की व्यवस्थाये नहीं करनी चाहियें। हम सरकार के सैद्धान्तिक विरोधी हो सकते हैं। सरकार के लोग सोच सकते हैं कि किसी एजिटेशन सत्याग्रह की आवश्यकता नहीं है लेकिन जो विरोधी दल के लोग हैं वे यह सोच सकते हैं कि सरकार का यह दृष्टिकोण सही नहीं है किसी एजिटेशन में भी जनता की राय को बनाने के लिये यह आवश्यक है कि हमेशा शांतिपूर्ण सत्याग्रह होता रहे। मैं इस बात को मानने के लिए बयार हूँ कि इस में सरकार का दृष्टिकोण दूसरा हो सकता है, लेकिन चूँकि सरकार का दृष्टिकोण दूसरा है इसलिए जो अधिकारी

होते हैं वे यह सोच सकते हैं कि अगर किसी ऐसे आदमी के पास लाइसेंस है जिस ने सत्याग्रह में हिस्सा लिया है, जो कि वक्त की सरकार के खिलाफ है, तो उस का लाइसेंस रद्द कर दिया जाना चाहिए। जो हमारा जनतंत्र आज कायम है उस में इस तरह की व्यवस्था कानून में नहीं होनी चाहिए। कोई नृत्तम निकालना है, जुलूस के लिये जिलाधीश कहता है कि उस से शांति भंग होने का खतरा है, और चूँकि शांति भंग होने का खतरा है इसलिए उस तरह के व्यक्ति को लाइसेंस नहीं दिया जाना चाहिए, इस तरह की व्यवस्था कर के आप कहते हैं कि इस कानून को लिबलाइज किया जा रहा है तो मैं कहूँगा कि यह तो हमारे जनतंत्र का बिल्कुल आत्मा हो जाता है। इसलिए मेरा निवेदन है कि जो इस विषयक का क्लॉज १४ का सब क्लॉज ३(२) है जिस में कि शांति भंग होने के खतरे का उल्लेख है, उसे आप खास तौर से देखने की कोशिश करें। क्लॉज १४ के सब क्लॉज ३(२) में दिया हुआ है

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अगर इस चीज का रखना आवश्यक समझा जाता है तो इस में बहुत ही ज्यादा चेक्स लगाये जाने चाहियें। लाइसेंसिंग अथॉरिटी के हाथ में इस तरह के कोई अधिकार न हो जिन से कि चाहे जिन व्यक्ति को, चाहे वह राजनीतिक विरोधी हो या कोई और इस नाम पर कि शांति भंग होने का खतरा हो सकता है उसे लाइसेंस न दिया जाय।

मैं इस को मानता हूँ कि यह कह कर कि लाइसेंस देने के लिये प्रापर्टी कोई आधार नहीं होगी एक अच्छी बात की गई है। लेकिन इतना ही काफी नहीं है। मैं कहूँगा कि आज राज्य सरकार या केन्द्र सरकार कोई इस तरह की व्यवस्था नहीं कर सकती कि जिन के पास हथियार रहेगा उन के लिए कोई कानून बनाया

[श्री वजराज सिंह]

जाय। हथियार कौन रखेगा इस के लिये कानून हम बनायें यह मुनासिब और अच्छी बात नहीं है। हमें इस तरह का कानून बनाना चाहिए कि कौन इस तरह के लोग हैं जो हथियार नहीं रख सकते। आप कह सकते हैं कि ऐंटी सोशल लोगों के लिए ऐसा कह सकते हैं। लेकिन आज समाज विरोधी तत्वों की जो बात कही जाती है उस के भी बहुत ही भिन्न भिन्न माने लिए जाते हैं सरकार के मंत्रियों के दिमाग में समाज विरोधी तत्वों के लिए कोई भ्रम माने हो सकते हैं लेकिन जो आदमी इस कानून पर भ्रमल करने "उन के लिए समाज विरोधी तत्व के लोग नहीं हो सकते जो कि रिस्वत लेने हैं, या जो हाकिम परगना कि पक्षप्राप्त का काम करने हैं बल्कि राजनीतिक विरोधियों को ऐसा माना जाता है। आज राजनीतिक विरोधियों को डायरिया रखी जाती है, आज हमारे यहाँ पुलिस के लोग रहते हैं जो यहीं देखने का काम करने हैं कि विरोधी दल की ऐक्टिविटीज क्या है, वे उन को नोट करते हैं कि आज उन्होंने यह जुलूस निकाला, यह मीटिंग की, यह प्रदर्शन किया। तो जहाँ तक समाज विरोधी तत्वों का सवाल है, उस का धामरा बनाने की जरूरत है। जो ब्लैक मार्केटिंग करते हैं, डकैती डालते हैं, चोरिया करने हैं, चोरी का सामान लेते हैं, चोरी करने में मदद करते हैं, इस तरह के लोगों को लाइसेंस न दिया जाय, यह मैं मान सकता हूँ, क्योंकि आखिर हमारा उद्देश्य आज क्या है? हमारा उद्देश्य यह नहीं है कि जो गतिपूर्वक तरीके से अपनी रक्षा करना चाहता है उसको हम अपनी रक्षा करने से रोकें। आज देहातो की बात तो छोड़ दीजिये, शहरो में लोग आते हैं और दिन दहाड़े चोरिया छेड़ते हैं, धाकर लूट ले जाते हैं। हमारे देश के पास आज पुलिस इतनी नहीं है जो कि हमारी रक्षा कर सके और पुलिस का पूरा इन्तजाम हो सके। वैसे मैं मानता हूँ कि अधिक तादाद में हम पुलिस का इन्तजाम करने रहेंगे तो हमारा खपया बहुत ज्यादा खर्च हो जायेगा, लेकिन अगर वह हम कर भी दें तो भी मैं

इस को मानने के लिए तैयार नहीं हूँ कि जो भी पुलिस रहेगी वह हर एक व्यक्ति की रक्षा कर सकेगी। इसलिए कानून की तरफ से इस तरह के चैक्स न होने चाहियें कि जो व्यक्ति अपनी इच्छा के मुताबिक अपनी सुरक्षा करना चाहे उस की सुरक्षा पर कोई रोक लगे। अगर हम इस तरह का कानून बना कर इस सुरक्षा पर रोक लगाते हैं तो यह ठीक नहीं है। मैं मानता हूँ कि हमारा देश अहिंसा का देश है, न सिर्फ हमारे महात्मा गांधी जी ने हमें अहिंसा का पाठ पढ़ाया बल्कि उन से पहले महावीर और बुद्ध ने भी अहिंसा का पाठ पढ़ाया, ऐसी दशा में इस देश की जनता से क्या खतरा हो सकता है? हाँ, जो समाज विरोधी तत्व हैं उन्हें रोकने के लिए आप प्रतिबन्ध लगाइये, उन के लिए कोई कानून आप लाइये। इस पर हमें सिद्धान्त रूप में विचार करने के लिए तैयार रहना चाहिए। क्या हम कोई ऐसा इन्तजाम कर सके हैं जिस में हम लोगों से यह कह सकें कि हम बिना हथियार के रह सकते हैं? यदि नहीं, तो यह करना चाहिए कि यहाँ के लोग अपने पास हथियार रख सकें। ऐसी अवस्था आज नहीं है। यह एक ऐसी चीज है जिसे, मैं नहीं समझता, कि सरकार कभी स्वीकार करने के लिए तैयार होगी क्योंकि सरकार जो कुछ भी करती है तो पुलिस वालों से रिपोर्ट मागती है और पुलिस वालों का दृष्टिकोण अभी बदला नहीं है। वे सोचते हैं कि अगर हर एक को लाइसेंस दे दिया जाता है तो हो सकता है कि उन के लिए बहुत ही मुश्किल हो जाय। लेकिन इस तरह का कोई खतरा नहीं है। फिर भी सिद्धान्त रूप में हम को इस पर विचार करना चाहिए।

इस के अलावा आप ने तीन माल का पीरियड रखा है। जहाँ तक तीन माल के पीरियड का सवाल है मैं नहीं सोच पाता कि इस तीन साल की क्या जरूरत है। एक साल में तीन माल कर दिया गया, यह अच्छी बात है लेकिन तीन साल की बजाय क्या यह नहीं हो सकता कि जब किसी को एक दफा लाइसेंस

दे दिया जाता है तो जब तक उस के खिलाफ कोई ऐसी बात नहीं आ जाती जिस से कि कानून की व्यवस्था की अवहेलना होती हो, तब तक उसे लाइसेंस को रिन्यू कराने की जरूरत न पड़े ? पहले साल में एक दफा लाइसेंस रिन्यू होता था, अब तीन साल में होगा। इस में यह होता है कि जो लाइसेंस रिन्यू करने वाले अधिकारी होते हैं उन की चांदी होती है। हर लाइसेंस को रिन्यू करने के लिए ५ ६० वे लेते हैं। आखिर इस तीन साल के पीरियड के बाहर हम क्यों नहीं जा सकते ? जब एक दफा लाइसेंस दे दिया जाता है तो जब तक उस के खिलाफ कोई ऐसी बात न पैदा हो जाय जिस की वजह से लाइसेंस नहीं दिया जाना चाहिए, तब तक उस लाइसेंस को कायम क्यों न रखा जाय ? तो मैं कहूंगा कि तीन साल की लाइसेंस देने वाली जो बात है उस पर विचार किया जाना चाहिए।

इसके साथ साथ नियम बनाने का मवाल आता है। उसमें हमारी राज्य सरकारें जो नियम बनाया करती हैं और उन के जो नियम होते हैं वह एक अजीब तरीके के नियम होते हैं। कभी कभी सरकार की तरफ से आदेश जारी करने होते हैं और हमारे देखने में यह आया है कि इसमें खास राजनीति चला करती है और लाइसेंस देते वक्त सम्बन्धित अधिकारी खाली यही नहीं देखते कि अमुक व्यक्ति कैसा है और वह लाइसेंस पाने के योग्य है अथवा नहीं बल्कि लाइसेंस देने में पार्टीबाजी और राजनीति चलती है। कहीं कहीं पर तो ऐसा भी देखा गया है कि जो पार्टी पदाब्ध होती है जैसे कि कांग्रेस पार्टी है और कांग्रेस पार्टी में जो एक मिनिस्ट्रियल पार्टी है जिसके कि मिनिस्टर्स लोग होते हैं और कांग्रेस के अन्दर भी एक विरोधी पार्टी होती है और विरोधी पार्टी वालों को लाइसेंस नहीं दिया जाता है और मिनिस्ट्रियल पार्टी के लोगों को लाइसेंस दे दिया जाता है। इस तरह की बात चलती है। इसलिए मैं चाहूंगा कि प्रवर समिति को इस के लिए कोई उचित व्यवस्था करनी चाहिए, इस तरह की बात सोचनी चाहिए

जिससे कि राज्य सरकारें जो अलग अलग नियम बनाती हैं उनके सम्बन्ध में हम कोई ऐसी व्यवस्था कर सकें और कोई इस तरह के बैकस लगा सकें जिससे कि यह बीच बंद हो सके।

मैं यह मानता हूँ कि अब हथियारों के लाइसेंस देने में कोई प्रापर्टी अथवा जायदाद का सवाल नहीं रह गया है और अब यह चोख नहीं रह गई है कि जायदाद के आधार पर किसी को लाइसेंस दिया जायगा तो उसे कुछ सुविधा मिलेगी। इसके बावजूद भी इस तरह की बात हो सकती है और और भी बातें हो सकती हैं जिनके लिए कि कहा जा सकता है कि इस बात की सावधानी बर्तनी आवश्यक है कि कहीं समाज विरोधी तत्वों को तो हथियारों के लाइसेंस नहीं दिये जा रहे हैं।

इसलिए मेरा कहना है कि जब सरकार का उद्देश्य आर्म्स ऐक्ट लाइसेंस सम्बन्धी नीति को सिद्धान्त बनाना है, उसमें अधिक सुविधायें देना चाहते हैं और उस सम्बन्ध में एक उदार नीति बर्तना चाहते हैं तो सरकार को इस मौजूदा कानून में कुछ बहुत ही महत्वपूर्ण परिवर्तन करने पड़ेंगे और मेरा निवेदन यह है कि उन परिवर्तनों की तरफ प्रवर समिति को ध्यान देना चाहिए।

13:42 hrs.

[Mr DEPUTY-SPEAKER in the Chair.]

इसके साथ साथ यह जो इसमें ६ महीने की कैद की सजा की व्यवस्था की गई है और हालांकि उस मोरेल टर्गीब्यूड वाली बात कही गई है लेकिन यह भी ध्यान में रखना चाहिये कि मोरेल टर्गीब्यूड की जो इसमें बात कही गई है तो आज भी मुल्क में बहुत से ऐसे लोग हैं जो कि ईमानदारी के साथ यह महसूस करते हैं कि मुल्क में जनतंत्र को सफल बनाने के लिए यह आवश्यक है कि जो भी अत्यायपूर्ण कानून हो उनका न सिर्फ सिद्धान्ततः विरोध किया जाय या सभाएं करके विरोध किया जाय बल्कि उन कानूनों

[श्री बजरान सिंह]

का विरोध उन को तोड़ कर और सजा भुगत कर किया जाये। अब भी ऐसे लोग हैं जो यह महसूस करते हैं कि यदि इस तरह का कानून बना कर हम ऐसे लोगों को जिनको कि इस बिना पर कि उन्होंने ससद् या किसी विधान सभा द्वारा पारित कानून को जिसको कि वह अन्यायपूर्ण कानून समझते थे और उस अन्यायपूर्ण कानून को तोड़ने के कारण जिनको कि सजा हो गई थी, उनको इस सजा हो जाने के कारण हथियारों का लाइसेंस देने से इंकार कर दिया जायेगा। हमें यह रेखा होना कि कहीं कानून के वर्तमान रूप में होने से इस तरह की बात न हो जाये कि ऐसे लोगों को लाइसेंस देने से इंकार कर दिया जाये। इसलिए मैं चाहूंगा कि इस पर भी प्रवर समिति ध्यान दे और ऐसी व्यवस्था करे ताकि इस तरह की कोई दिक्कत दरपेश न आये।

उपाध्यक्ष महोदय, आपको याद है कि हमारी लोक सभा के माननीय अध्यक्ष ने अभी कुछ दिन पहले अपना यह विचार प्रकट किया था कि संसद् भी अगर कोई कानून बनाती है और उसके लिए कोई नागरिक यह महसूस करता है अथवा नागरिकों का कोई वर्ग यह महसूस करता है कि वह कानून अन्यायपूर्ण है, और यदि उनकी निगाह में वह कानून अनुचित और अन्यायपूर्ण है तो उस कानून को तोड़ने का उन्हें अधिकार है। मैं यहां पर अध्यक्ष महोदय का उदाहरण देकर उसके महत्व को बढ़ाना नहीं चाहता लेकिन मैं यह बात अवश्य कहना चाहता हू कि न सिर्फ अध्यक्ष महोदय बल्कि हिन्दुस्तान के बहुत से नागरिक यह महसूस करते हैं कि जनतंत्र को सफल बनाने के लिए जनतंत्र में हमेशा स्वतंत्रतापूर्वक और बिना किसी डर के हर एक को अपना विचार प्रकट करने की पूर्ण-स्वतंत्रता होनी चाहिये। इस तरह की बात जब तक नहीं सोची जायेगी तब तक हो सकता है कि जनतंत्र केवल एक पार्टी गवर्नमेंट अथवा एक जाति घुने हुए गुट का ही हास्यस्वर

प्रजातंत्र बन कर रह जाये। इसलिए मेरा निवेदन है कि हम इसमें इस तरह की व्यवस्था करें जिससे कानून में यह चैन न रहे कि जो आदमी स्वच्छा से हथियार रखना चाहता है उसको हथियार न रखने दिया जाय। इसके साथ ही यह भी देखा जाय कि आज जो हथियारों का लाइसेंस देने में राजनीति, पार्टीबंदी और अष्टाचार चल रहा है और जो पक्षपातपूर्ण रवैया बर्ता जा है कि जिस आदमी को भी लाइसेंस एप्लीकेशन चाहे वह कलक्टर हो अथवा हाकिम परगना, उस आदमी को तो वह हथियारों का लाइसेंस दे देते हैं और दूसरों को नहीं दिया जाता है, यह चोट चंद हो जाये। लाइसेंस एप्लीकेशन यह एक्सक्यूज लेकर और यह नियम बना कर कि तुम्हारे पास यह नहीं है और तुम्हारे पास वह नहीं है और या यह कि चूंकि तुमने श्रमदान नहीं किया है इसलिए तुम्हें लाइसेंस नहीं दिया जा सकता, मेरा कहना है कि यह दृष्टिकोण लाइसेंस देने के लिए अपमानासर्वथा अनुचित है। अब जहां तक श्रमदान का सम्बन्ध है वह एक अच्छी और स्वागत योग्य चीज है लेकिन हथियारों के लिए लाइसेंस देने में श्रमदान की बात करना, यह तो श्रमदान का मजाक बनाना है। मैं तो यह कहूंगा कि लाइसेंस देते समय श्रमदान की शर्त लगाना यह तो उसी पुरानी परम्परा को जारी रखने वाली बात हो गई जब कि यही हमारे पुराने सरकारी अधिकारीगण लड़ाई के लिए चंदा देने पर जोर दिया करते थे और चंदा देने के लिए लोगों को मजबूर किया करते थे और जो लड़ाई में चंदा दिया करते थे उनको हथियारों का लाइसेंस दिया जाता था और आज हमारे अधिकारियों ने लड़ाई के चंदे के स्थान पर इस श्रमदान को लाकर रख दिया और वह कहते हैं कि यदि तुम श्रमदान करो तो तुम्हें लाइसेंस दे दिया जायेगा.....

पंडित डाक्टर दास भार्गव (हिसार):
कैप सेविन्स सर्टिफिकेट्स जारी देने के लिए कहते हैं।

श्री कृष्णराव किहू : जी हां यह कहा जाता है कि कैबेज सेविंग्स सर्टिफिकेट्स खरीदोने तो हथियारों का लाइसेंस दिया जायगा। लेकिन मेरा इस सम्बन्ध में कहना यह है अच्छा काम और उद्देश्य अच्छे भावमियों द्वारा ही पूरा हो सकता है और उस काम को उन्हीं पुराने नौकरसाही के लोगों क्लकटर्स और हाकिम परगना से करवाना उचित नहीं है और भाव जो अच्छाचार फैला हुआ है उसमें अक्सर उनके द्वारा झूठे सर्टिफिकेट्स दे दिये जाते हैं कि अमुक अमुक ने भ्रमदान किया है अथवा इतनी समाज सेवा की है हालांकि वे कभी समाजसेवा और भ्रमदान के निकट मटके तक भी नहीं हैं लेकिन धानेदार आदि को रिखत आदि देकर इस तरह झूठ लिखवा लिया जाता है इस लिए मैं चाहता हूँ कि इस तरह का कोई प्रतिबंध नहीं रहना चाहिये जिसमें कि ऐसे लोगों को जो कि गलत काम कर सकते हैं उनको इस तरह के गलत तरीको से इस तरह की झूठी रिपोर्टों के देने की बात हो क्योंकि ऐसा होने से अच्छे कामों की बदनामी ही होती है। मेरा निवेदन है कि प्रवर समिति इस पर गम्भीरतापूर्वक विचार करेगी और विशेष कर उन लोगों को जो कि उसके सामने गवाही देना चाहते हैं उनको गवाही देने का मौका देगी और उनका मेमोरेण्डम लेगी ताकि इस कानून पर अच्छे तरीके से विचार हो सके और उसके बाद प्रवर समिति सदन में गिजेटेड फेज की जाय और सदन को पुनः उस पर विस्तारपूर्वक विचार प्रकट करने का अवसर मिले। मैं चाहता हूँ कि इस सम्बन्ध में कोई इस तरह का कानूनी प्रतिबंध न रहे कि वे हथियार नहीं रख सकेंगे असलता प्रतिबंध उन लोगों पर रहे जो कि समाज विरोधी तत्व होते हैं और जिनसे कि देश की सुरक्षा को खतरा हो सकता है। मैं आशा करता हूँ कि प्रवर समिति इन सब चीजों को ध्यान में रख कर इस पर विचार करेगी।

Shri D. C. Sharma: (Gurdaspur):
Sir, I think this Bill has come twenty years too early. We should have had

this Bill in 1908 and not in this year..
(Interruptions.)

An Hon. Member: It is forty years too early, then.

Shri D. C. Sharma: I think all the experience that could have been had by our Government, by the State Governments and by the public in the matter of working of an out-moded, colonial-time, Arms Act imposed upon a dependent country ruled by an alien Government, all the experience gained during the course of these years has been lost upon this Ministry and Government. We have not learnt anything from the working of that Arms Act during all these years. They have brought here a stereotyped Bill, a Bill which is as outmoded in the context of India's freedom as anything can be. My friend over there said he felt very unhappy. I feel distressed about the fact that the approach that has been made to this problem has been an entirely departmental approach and not an approach which is in conformity with the needs of the public or the urges of the people and the needs of a free India which is pulsating with new life of all kinds.

Sir, it has been said that this Bill is meant for the control of arms and ammunitions. I welcome it. But when I read these two phrases, arms and ammunitions, I think that these phrases were the grossest kind of unreality. You talk of arms and ammunitions in a country where we do not have any self-sufficiency so far as even ordinary arms are concerned and you talk of ammunitions in the context of a country where we have to depend for ammunitions of all kinds on other countries. I think here is a Bill brought forward by the Home Ministry where we are going to legislate for a thing that does not exist. We are going to have a Bill for things which may come about after 10 years or five years. I know we are making desperate attempts to have self-sufficiency in the matter of arms and ammunitions but I cannot understand why we should talk of control of something which does not

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exist very much, which exists only, in a rudimentary form, which exists only in a form which is not very visible.

Sir, to say that this spirit of unreality prevails in the Bill one has to look at clause 2 of the Bill. Clause 2 of the Bill will show as if we are going to have this Arms Bill for a very progressive and up-to-date country like USSR, USA or UK, where the people have all kinds of arms and all kinds of ammunitions. But, whereas the definition of arms and ammunition has been made as wide as possible, as comprehensive as possible—of course, this must have been taken from some Act in some country—I must say that the whole thing shows that there is a big gap between the definition and the reality. I do not understand why the Home Ministry should have legislated for the unknown future without taking into account the known needs of today.

Another point I want to make is this. It has been said that this Bill follows a liberal policy. I do not understand what is the meaning of the word 'liberal' here. It would have been a liberal policy, I would say, if we should have made the possession of arms as easily possible as is desired in the context of our life today. But I find that the whole question has been approached from a negative point of view and not from a positive point of view. For instance, I would say that the Ministry should have sat down and analysed the needs of the people so far as these arms go. It should have asked itself one question. Who are the people that need arms today? I think if they had asked this question themselves, the whole of this Bill would have come to have some atmosphere of reality about it.

For instance, Sir, there are agriculturists living in remote villages who need arms. What have we done for them? You have thrown them to the mercy of the licensing authorities who are mostly urban minded.

An Hon. Member: Also wild animals.

Shri D. C. Sharma: Well, wild animals are not so bad as some human beings—I shall come to that later. Sir, I was submitting very respectfully that the first group of persons that should have been taken note of by the Home Ministry are these agriculturists who have to protect themselves against wild animals and against other things. I know how hard it is for them to get licences. I know it from personal experience. Do you mean to say that they have got greater facilities than before on account of this Bill? Certainly not. They remain stranded as before, and the talk about this liberalisation of the provisions of the Bill is a talk in the air.

An Hon. Member: It is going to the Select Committee.

Shri D. C. Sharma: The Select Committee will do it. That is why I am making these observations. Again, there are certain areas—my hon. friend over there referred to them—which are dacoit infested. My sister there also talked about those dacoit infested areas yesterday. There are dacoities going on in free India even now. Even yesterday. I read in the papers about some dacoit in U.P. being liquidated after his having committed some 200 dacoities. Dacoities are going on in U.P., in Madhya Pradesh and other parts of India. I want to ask one question. Does this Bill give any hope to those persons who are living in these dacoit infested areas? Certainly not. They are going to fare as ill as before. It does not give any relief to them. It does not liberalise the provisions for them.

Again, look at our border districts. All our borders are unsafe. There was a time when we used to think that our borders with Pakistan are occasionally quiet but our borders with other countries are practically quiet. But I feel that now things have been moving in a direction, unfortunately,

by means of which, I would say, these borders are not quiet. I do not want to use any hard word. I only say they are not quiet. And, what do you think of the people who are living in those border areas? I belong to a border State. I come from a border constituency. I represent a border constituency. I have some idea about the people who live in these border areas. I understand their needs. When I go to Gurdaspur, Dera Baba Nanak and other places in the border districts, people say that they do not have any protection, they do not have any kind of fire arms and even if they want to get a licence for possessing arms they have to go so many miles and waste so many hours and days. They have to sit in the courts for such a long time. They tell me all these things. Have you taken note of the needs of these people in the border districts in this Bill? No. Because this Bill is a blanket Bill, and this Bill wants to lump together all the citizens of India in one bunch without taking into account their special needs or their special difficulties. I think no Bill could have been so out of touch with the realities as this is.

Again, I would say, there are some learned professions in our country, and I think the possession of a licence for fire arms will not be abused in their hands. Judges, advocate, teachers, lawyers, there are so many learned professions. . . .

An Hon. Member: Professors?

Shri D. C. Sharma: Professors are included in teachers. Sir, I was submitting very respectfully that you should have made it easy for the practitioners of these learned professions to possess arms. There are some advocates in my constituency. Some teachers and other—this experience is not particular to me, it is the experience of all—in my constituency, and they have to stand the vexatious procedure, vexatious delays and the vexatious and irksome visits in order to get a licence. I would ask, why don't you make it easy for persons of this kind to get a fire arms licence?

Sir, you must have read in the papers that one of the States in India recently passed a Bill that invigilators who go to supervise examinations should be treated as public servants. Now, there are some persons in this world, in India, who have to perform duties which involve a great deal of risk to their lives. Teachers have sometimes to do that, invigilators have to do that, railwaymen have to do that and there are other persons who have to do that. Have you made it easier for them to get licences? Have you brought out one Bill, an Amrit Dhara, for all kinds of ailments, for all ailing humanity? If this is the panacea for all kinds of suffering people, I would respectfully beg to submit that this will not work.

14 hrs.

Shri Supakar: What about article 14?

Shri D. C. Sharma: I am coming to that. I would say that there are so many other types of persons who want that. But nothing like that has been done. I would say that the Ministry should have tried to have a survey of the population of India in terms of groups of some kind, some professions, in terms of geography or any other aspect and then said that these groups will get licences without any difficulty or trouble. In that case their licences will be something automatic. They will not have to go through all the procedures but nothing like that has been done. Why has it been done like this? It has been said that we have kept in view the overall demands of public security and the maintenance of public order. Public security for whom? Public order for whom? It is a negative approach. I want the Government to make a positive approach towards public security. Public security does not mean that you should try to limit the number of those persons. Public order does not mean that you should try to limit the number of those persons who are responsible. Public order means that every person who has not been found to be a disturber of the peace in any sense of the word, every person who

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has not been found to be a disturber of security in any sense of the word, should have the freedom to have the licences.

What is going to happen now in the light of the words 'public security' and 'public order'? Where is your public security and where is your public order in respect of the dacoits? From where do they get their arms? You have so many Inspectors-General of Police, this, that and the rest, and yet they get arms. What is your guarantee against the smuggler of arms? Your guarantees have proved to be futile. What are your guarantees against the manufacturer of contraband arms? You discover it too late in spite of your policemen and all your CID and in spite of special vigilance officers. You discover the mistake but you discover it too late. Even if you discover, your discovery is five per cent and not one hundred per cent, as in the discovery of other unlawful things that are happening. Therefore, if public security and public order have any meaning to the ordinary citizen of India, in free India, it will be this: will this Bill sit tightly over the manufacturer of contraband arms, over the smuggler of arms, over all those persons who use arms illegally? Will this Bill mean to them that they can have arms to protect themselves against such people?

What I mean to say is this. This Bill is not meant against the evil-doer; not meant against the wrongdoer. It is not going to make his position worse than before. But this Bill is meant to tighten the grip over the ordinary, harmless citizen of free India, and therefore, I think the whole conception of this Bill is obsolete and outmoded.

Again, the most important part of this Bill, the most operative part of this Bill is clause 44. As you know, we have some parts about theory and some parts which are practical. The clause that has to have practical connotation is clause 44. That is the operative part of this Bill. What kind of application have to be given?

What kind of licence should be applied for? These things come under the operative part of the Bill. I have gone through so many Bills here. I do not think I can refer to the Companies Act. Perhaps, when that Bill was brought in, it was a little more comprehensive than this Bill. I have not seen any Bill in which the operative part has been left out for the rule-making power of the Ministry. Why should not the Ministry give us appendices in which are shown samples of forms of applications for licences?

There is another thing. If you read clause 44, you will find that they have exhausted almost all the letters of the alphabet. Only a few have been left out. It begins with (a) and ends with (m). I feel that if all of them are taken together, they will supersede or exceed the alphabet. This is a Bill in which the ordinary citizen is interested. All these clauses are those in which the lawyer will be interested, and when there is trouble, when there is an illegal suit, he will have his say on these things. The ordinary citizen who wants to have a fire arm will be interested in clause 44. He wants to know what kind of application form he has to fill in, but all these things have been left out. Of course, the Government will say, "they will come to us". But everything comes to us. What is it that does not come to us? I would say that this thing should have been mentioned in the Bill, along with the other provisions, because this is the most operative part of the Bill. That has been left as vague as possible. I would say that in the case of these Bills, which have to deal with the masses, the people, the public at large, the skeleton of those forms and procedures should be given as part of the Bill.

For instance, we may pass a Bill and we may find that the rules will be very irksome, and then there may be a debate on the floor of the House and so on and so forth. This is a Bill where, apart from the head, the body

is important. The head is there, and it is important. But the body is left vague. It is a Bill with the head but with no body. I know what the head is. But I do not know where the body is. I say with due respect and due humility that in future the Government should kindly give us the details also so that we can pass our judgment more adequately on the Bill.

I now come to clause 13. In clause 13, it has been said that you can have a licence and all that. There are some friends of mine who have said that licences should be given in perpetuity whereas some other friends may say that the licence should cover 5 or 10 years and so forth. I would say that there should be some definite provision made for short-term licences. For those short-term licences, one should not have to go through all that irksome procedure. For instance, if a man is entrusted with some very important duty and he wants a licence for 3 or 6 months, he should not be required to go through all this irksome procedure. So, there must be some room for short-term licences. Of course, 3 years is not a bad provision, but I would say that it should be extended as much as possible.

Clause 16 provides that different conditions and different forms may be prescribed for different types of licences. There may be some justification for that, but I know what the executive will do so far as the different forms are concerned. There will be a plethora of forms and a surfeit of different types of licences and the ordinary citizen of India will be smothered under those forms and licences.

Clause 19 says.

"Any police officer, or any other officer specially empowered in this behalf by the Central Government, may demand the production of his licence from any person who is carrying any arms or ammunition."

I do not know what the definition of a police officer is. I do not know what is the rank of the police officer.

An Hon. Member: A constable.

Shri D. C. Sharma: My hon friend is a very fine advocate and he has given me a good hint. If I hold a licence and if I am to be at the mercy of every policeman, God save me.

This Bill follows the old rut and the old groove. I know what licences means today. They are a symbol of Property; they are a symbol of authority and power. Persons who own lands show their fire-arms; they have their fire-arms swung over their shoulders, to show that they are men of property, who own lands. The possession of fire-arms is a symbol of class-consciousness, a symbol of money, wealth and all that. Has the Government done anything to see that the possession of fire-arms is not going to be something like that and even an ordinary citizen will be able to possess it? What do people do? Big landlords go about with pistols to frighten the poor landless labourers. You do not know that because you do not move about in the villages. I go about in my constituency and I know it.

I would say, make this measure a People's measure in the real sense of the word; a measure which is good for the people and I am sure the whole House will be with you in this.

Shri Naushir Bharucha (East Khandesh): The very fact that the Arms Act has substantially remained the same for nearly 80 years points to a need for altering it and revising it rather radically. The basic objective should be liberalisation of the privilege to bear arms, because bearing arms is the hallmark of an independent people. Apart from the fact that there is an aspect of sentiment involved in it, there are very substantial reasons which point to the fact that a measure of this kind should be really liberal.

It is true that the Government have to take into account both the sides and strike a balance, to make the Arms Act liberal to the extent that people will not find difficulty when they require arms in procuring the

[Shri Nauahir Bharucha]

necessary licence and at the same time, see that the arms do not pass into the hands of undesirable elements, so that they might be used for creating disturbances, etc. But whatever the Government does, the fact will remain that there will be unauthorised arms. I was surprised the other day to read in some book that the unauthorised arms, particularly small arms, in America, were in such vast quantity that in fact that quantity exceeded the total issue of authorised arms. If in a country like America, where you have got such an efficient police force and such methods for detection, a thing like this could occur, let this House bear in mind that more or less similar conditions may occur in India. But in spite of that, there are causes and reasons which prompt us to liberalise this Arms Bill and I shall enumerate a few of them.

First, India is a country of villages and there is no police protection given everywhere. It is also impossible to give police protection everywhere. Today the position is, these villages are left to the mercy of marauders, robbers, dacoits, etc. and it is very necessary that some of protection should be given to the villages. In Bombay State, we have encouraged the formation of what are known as 'village defence parties.' I do not see any reason why, when we have gram panchayats, we should not take lead in the formation of village defence parties and why, as a matter of fact, arms should not be supplied to such village defence parties. I would go a step further and say, not only there should be no restriction in granting licences to village defence parties, but the Government should supply them arms at concessional rates. I go to that extent, because this should be a part of village defence organisation.

Secondly, we have remained unarmed for so many decades that we have become absolutely unfamiliar with the use of fire-arms. There was an amazing incident in Bombay. A Justice of the Peace procured a licence

for a revolver. His friend wanted to see it, but he said, "I have kept it in the Central Bank safety deposit vault, because it is a very risky thing to be kept." (Laughter.) We laugh at this incident, because we have been unarmed for so many decades that we are not familiar with it. It is very necessary now that people must be habituated to the use of fire-arms, even if we have got to take some risks. The only way is to liberalise reasonably the issue of fire-arms.

Also, let it be appreciated that if people become accustomed to the use of fire-arms, they will very well constitute a third line of defence. In a vast country like India, it is humanly impossible for anybody to be able to defend every portion of it by means of regular military forces. Our auxiliary territorial forces are only a fraction. Therefore, if at all—God forbid—any eventuality like war does occur and hostile forces have penetrated deep, it is conceivable that if the people in the villages have been habituated to the use of fire-arms, they can constitute a third line of defence in harassing the line of communication of the hostiles. I am looking at it from that point of view which deserves consideration—we should go in for greater liberalisation of the Arms Act.

Also, it should be appreciated that unless people get habituated to use of fire-arms for legitimate purposes your industry for manufacture of small arms will not develop. It is absolutely necessary to develop that industry, because ultimately a time will come, it should be properly appreciated, when the strategy of defence will have to be of a scattered type, more or less guerilla war tactics, it will come to that, though today we may not be inclined to accept that proposition. Therefore, I am of the view that in our country there should be established industries for manufacture of small arms and for this liberalisation of the Arms Act is very essential. Of course, as I said, there is the balancing factor, public law and order. This has to be

borne in mind at every step. It is against this background that we have to see the scheme of the present Bill which the hon. Minister has placed before this House

Broadly, the Bill divides arms into two categories—fire-arms and prohibited arms. Unfortunately, the definition of both of them requires many changes. If you see the definition, “firearms” has been defined as—

“arms of any description designed or adapted to discharge a projectile or projectiles of any kind by the action of any explosive or other forms of energy.”

Now “other forms of energy” will also include air, compressed air. That is one form of energy. Therefore, even an air gun will come under the definition of “firearms”, which is certainly not what was intended by the hon. Minister.

Then, if you see the definition of “prohibited arms” it says

“firearms so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty, or”

That is all right. But then it says

“weapons of any description designed or adapted for the discharge of any noxious liquid, gas or other thing.”

Therefore, even a water pistol, provided it is filled with some noxious liquid—it may even be dirty water and nothing more—then it will come under “prohibited arms”. So, all these things should be looked into.

Having put these two things into two categories, the hon. Minister tells this House that we have taken a more positive approach in the matter

of issuing licences by compelling the licensing authority that he shall grant licences under certain circumstances and for what licences should be granted. The licence will be for smooth-bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun for crop protection. But revolvers have been excluded, because Government feels that revolvers can be concealed and transported very easily and, therefore, difficult to detect. Therefore according to them, it will not be safe to permit people as of right, so to say, to have licence for revolvers. Now I do not understand why Government takes this view. We shall have to take certain risks, if you are going to make our people firearm-minded. That does not necessarily mean that they will be using firearms for illegitimate purposes. The position, as it stands today, is that all sorts of undesirable elements can have firearms but honest people, to whom protection must be given, are deprived of it. Even in cases where agriculturists *bona fide* need them, firearms have been denied to them. In this case it may be said that perhaps this will suffice their requirements. I say “No”, when revolvers have been excluded. When dacoits attack a village, revolvers are far more useful than 20-inch barrel gun, because they can be fired in quick succession without refill. This type of protection must be given to the villagers. It is no use arguing that this weapon may be used for several undesirable purposes. That will perhaps inevitably happen. It will be very difficult to check it. But it is a risk that has to be taken and so I think the Arms Act would require to be liberalised in that direction.

There are two more things. One is this: I cannot understand the insertion of clause 4 in this Arms Act, which says that in certain cases for certain areas the Central Government may prohibit completely the carrying of any arms whatsoever. Possibly what the Government have in view is that there might be cases where trouble has started in some locality and they

“(Shri Naushir Bharucha)

want this clause to be enforced there. But we have already got section 144, which serves the purpose quite adequately. For months together in Bombay city section 144 used to be promulgated for prohibiting the carrying of even pen-knives. What more does the hon. Minister want? Now under this clause the entire district can be prohibited from carrying any arms whatsoever, even pen-knives. Therefore, I submit that this clause is reactionary and should go.

Lastly, I have not been able to understand the penal provisions which have been inserted in clause 25. As you will see, all types of offences are lumped together, and it has been provided that they shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. I submit that the offences are of varying seriousness and, therefore, separate punishments should be provided for them. There should be minor punishments for small offences, at the same time, providing very deterrent punishment for serious violation of the Act. I think the emphasis on penal provisions must be for unauthorised use of firearms or unauthorised acquisition of firearms.

I feel that the provisions of the Bill are not liberal enough and I hope that in the interest of the cause of self-defence and national defence the Joint Committee will make the Firearms Act still more liberal.

Pandit Munishwar Dutt Upadhyay (Pratapgarh): This Bill to amend the Arms Act has, of course, come after so many years, and now an attempt has been made to liberalise the provisions of this Bill, as has been stated in the Statement of Objects and Reasons to the Bill. There is no doubt that certain provisions have been made here, and they are very much welcome and very useful. They can be said to be on the side of liberalisation. Particular mention has been made of the needs of the cultivators and the rifle clubs for these

arms. They have recognized the need and have provided for appeal against refusal to grant licences. That is one provision which will be very helpful.

Of course, certain objections have been raised, with which I do not very much agree. My hon. friend, Shri D. C. Sharma, said that property distinction is still there. It is very wrong to say that landlords and zamindars are likely to get preference. As a matter of fact, if he had read clause 14, sub-clause 2, it is very clearly mentioned that the distinction is to go. It says:

“The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.”

As a matter of fact, that provision is already there. Now property is not going to be a criterion for getting a licence.

Then he referred to the rules. Of course, the rules are to be placed before both houses of Parliament and amendments can be made. If there are any mistakes in the rules they can be rectified. But an honourable member said that there should be scope for *satyagraha*. I could not follow that—people should have liberty to go in for *satyagraha*. But there, how this licensing process would be of any use, I could not at all understand, because *satyagraha* has nothing to do with arms. It is far away from it. It is just the opposite. I could not follow it, but at the back of it, it appeared that probably our hon. friend meant that the politicians might be roped in on that ground, that it might be used against the political parties which are against the ruling Party and licences may be refused to them on that ground. That was said also. But then this question of *satyagraha*, which has been emphasised twice, thrice and four times, has no relevancy in this context.

Then there was the question of corruption. There is no doubt that there are difficulties in the procedure and also there is corruption at times. I do not know how far this procedure that has been adopted by this Act would be helpful in removing these difficulties. But then attempts have been made, although I do not think that they shall be able to control very much this corruption in the procedure. Therefore, the chances of corruption, if they were there, could not be very much minimised.

The other objection that was raised is that it is mostly left to the licensing authority. I do not know what other procedure can be followed, unless, of course, you do not have licensing at all. You might distribute these arms free. Wherever you appoint some authority, I do not know how far you shall be able to assure that there would be no irregularity, there would be no difficulty, no trouble and no corruption.

Then, objection has also been raised on the point of special provision for certain areas. It may be that section 144 might be enough, but then there are certain occasions and there are certain times when you do require a certain amount of special provision. For that it may be used. It may be sparingly used. That provision will not be very much against the liberalisation process that has been alleged. But, really I do not very much agree with the claim, liberalisation, because there are certain points where this liberalisation has not gone very far.

There was one point that was raised about the definition of arms. I really find that the definition of arms has been liberalised than before. Formerly, the definition of arms, as stated here in the old Act, included firearms, bayonets, swords, daggers, spears, spearheads, bows and arrows and also cannons and all parts of arms and machinery for manufacturing arms. That is all. Nothing else could be added to it. Now in this definition, sharp-edged weapons will be likely to include so many arms which it

may not be the intention of this Bill to include under 'arms'. It says:

"'arms' means article of any description designed or adapted as weapons for offence or defence, and includes firearms,...."

That is all right Then—

"..... sharp-edged and other deadly weapons....."

The only redeeming feature is the words 'deadly weapons'. This might be interpreted to include so many sharp-edged weapons. Big knives also might come in that category. There are sometimes deadly attacks with knives. So, in old definition there was a limit but now here that limit can be easily crossed if the interpretation is extended liberally a little. I think that by this, the liberalisation of Arms Act is very much limited.

Then the other point that I want to mention and which stands in the way of liberalisation as a matter of fact is that there have been prohibitions against persons and also against arms. As regards persons, the prohibition has been that—clause 9.

"Notwithstanding anything in the foregoing provisions of, this Act....."

(i) "(a) no person,—who has not completed the age of eighteen years, or...."

I am leaving out sub-clause (ii) and am reading sub-clause (iii).

"who has been offered to execute under Chapter VIII of the Code of Criminal Procedure a bond for keeping the peace or for good behaviour, at any time during the term of the bond" shall require, have in his possession or carry any fire arm or ammunition;

We are quite familiar with the proceedings under section 107 of the Criminal Procedure Code. They are the most ordinary cases in the court. If there is any trouble, proceedings

[Pandit Munishwar Dutt Upadhyay]
under section 107 are started and very peaceful people are bound over so that there may be no trouble and the trouble is ended. It remains for some time and then the time is over. But even for these people if no licences are granted, I would think that there would be a number of people in the villages who would not be entitled to a licence. So, this provision very much restricts the process of liberalisation or the intention of liberalisation that has been alleged by the hon. Minister in this Bill.

Then, again—

“no person shall sell or transfer any firearms or ammunition to, or repair, test or prove any firearm or ammunition for, any other person whom he knows, or has reason to believe—

(i) to be prohibited under clause (a) from acquiring, having in his possession, or carrying any firearm or ammunition, or

(ii) to be of unsound mind..”

Of course. So, this provision that has been made here, I think, very much restricts the scope of liberalisation that has been alleged in this Bill.

Although it has been claimed there is liberalisation, I would submit that a number of provisions are here—I have mentioned only two just to save time—that stand in the way of liberalisation that has been alleged. My submission is that as it is going to the Joint Committee; it would be a proper occasion there to discuss these matters and rectify these mistakes so that really the liberalisation that has been claimed may be implemented.

Mr. Deputy-Speaker: Shri P. R. Patel.

A large number of hon. Members want to speak. I shall call the hon. Minister at three o'clock.

Now, the hon. Members would be very brief, I suppose.

Shri P. B. Patel (Mehsana): Sir, we know that the Arms Act has been a gift from the Britishers to us some 80 years back in the year 1878 and the gift was for rising against the British rule in our country. Some 80 years have passed and we are in the twelfth year of our independent rule wherein the sovereignty of the people is accepted and yet I do not see any change between the law that is sought to be repealed and the present Bill.

If we look up the sections of the present law and the clauses of the Bill, we find that the spirit is the same and there is only some sweet coating here and there in the wording. The licensing authority had the full privilege to refuse a licence. Here, under the Bill, the same authority will exercise the same privilege. There in the Arms Act so many things were included. Here also the same things are included and even the muzzle-loading guns are included in firearms under this Bill. It has been admitted that the agriculturists require these muzzle-loading guns for the protection of crops. Now, if that is admitted, why should there be any restriction at all in possessing a muzzle-loading gun? I can understand the agriculturist being asked to get the gun registered. But, I do not see any reason why the agriculturist should be asked to approach the authority. Today, the authority is the district magistrate. I have got many instances. In many cases, agriculturists ask for licences and it takes more than a year and as a general rule, the refusal is there. I know of cases where the agriculturists asked for renewal and before the expiry of the licence, they were required to hand over the muzzle-loading gun to the police thana, the licensing authority took more than a year to renew the licence and the result was, the gun was confiscated and sold away. There is not one case. There are many cases.

I would request the hon Minister to consider one thing. A muzzle-loading gun is not so deadly a weapon as could be used against the Government. We have got the latest type of weapons. So, I would request him to consider that the licensing of a muzzle-loading gun should be for life time. It may be revoked at any time if it is considered desirable in the interests of peace and order. The Government may know the number of guns possessed, because they would be registered as the licence is given. Unless the licence is revoked, they may be allowed to continue in possession of the gun. I say this for one purpose. In the villages, the villagers forget when the date expires. I have come across many cases where these persons have been prosecuted and their guns confiscated and sold away. I would like him to consider this very sympathetically and he will consider, I am sure.

I would like to press one thing. The agriculturists have to stay in their fields at night. We know that offences like cattle-lifting, damage to crops and even looting and so many things do happen. What is the protection to them? When we approach the authorities, they say, we cannot keep a police constable in every field. When we approach the authorities for licence, they are not well inclined. I would submit that if we are not in a position to give full protection to the agriculturists to stay in the farm at night, they should be allowed to possess arms.

I would submit that in proper cases, licences for rifles and revolvers also should be given to the agriculturists. There is no harm absolutely. In the twelfth year of Independence, if we do not trust our people who are our masters, what is to happen? I can understand, the Government has to consider so many things. Government has to maintain peace and order. Keeping all these in view, I would suggest that licensing in proper cases should be very liberal in the case of licensing of revolvers and rifles.

One thing hurts me. When we are amending the Arms Act, there is no amendment absolutely. I feel that. Because, all the sections that are in the Arms Act are only renewed in this Bill. There is no change absolutely. I would like to say to the hon Minister, when India was not free, there were so many other States in the country. We used to call them absolute monarchs and by so many other words. In those States, possessing of M.L. guns was freely allowed. Licence was not required. I would cite to him some cases. In Baroda, everybody could carry a muzzle-loading gun. No licence was required. I would give another case. My hon friend is sitting just by me, the Thakore of Ghodasar. It was a small State of 27 villages. There also, no licence was required to possess muzzle-loading guns.

An Hon Member: Even in the villages.

Shri P. R. Patel: Everywhere. If after Independence, we are required to ask for licence for muzzle-loading guns, I think that is too much. We distrust our people. That is my feeling. I do not know why the ruling party has in its mind so much distrust for the people. Are the people going to revolt against the ruling party? Ours is a democratic State. If at all they shall be removed, they shall be removed in a most constitutional way. I do not think people are in a mood just to take arms and revolt against the present rulers. I feel that if at all we say that sovereignty lies in the people, then, naturally, it is rather desirable that we should trust our people and allow them to possess arms. I can understand registration of arms. I have no objection to it. I wish that all arms are registered. Let a Register be kept. I do not object to it. So far as these revolvers, rifles and such other guns, are concerned, they may be reviewed from year to year or after three years. That would be adequate. Why should there be a renewal for a muzzle-loading gun? That, I do not understand. It is not a harmful weapon, I would submit to the Government.

[Shri P. N. Patel]

In the end, I would say one word. The Bill is to go to the Joint Committee. The Joint Committee will consider the measure fully, I am sure. I would expect the Joint Committee to come out with a Bill which would give credit to our country. I know my district is on the border of Pakistan. Some day—God forbid—we shall be required to face some difficulties. If our people are not trained in arms, how are we to defend? I am of opinion, the Army comes later on, but the people there can defend the country. We should desire that our people should be so armed and they should be trained in the use of arms that they may be able to defend the country and obstruct any invasion of our country. Do we desire it? On the contrary, what do I find? People leaving the train and going to the village are robbed on the way. They cannot defend themselves because they are armless. The dacoits and robbers do not require any licence. They are good enough not to approach any authority for licences. They do possess guns. By having such a Bill, we are giving a long rope to the evil genius, anti-social elements and take away the protection of the civilised people, the law abiding people. So, I would submit that the Joint Committee might consider all these points.

Shri Ajit Singh Sarhadi (Ludhiana): Mr. Deputy-Speaker, Sir, I am glad that the Government has at long last felt that the Act of 1878 calls for repeal and replacement and has brought forward this Bill. But I cannot congratulate the Government for this because this Bill does not liberalise the provisions of the old Arms Act. The old Act of 1878 is a reminder of the slavery under which the country had been passing through. It is a lamentable relic of the foreign rule. It is rather unfortunate that it has remained on the statute-book for the last twelve years.

The Bill that is under discussion should have been on the statute forty

years earlier. I recollect that it was as early as 1918 that questions were put in the old Assembly that the old Act should be amended. In 1948, when Dr. Katju was the Home Minister, he laid down certain principles, which should form the basis of approach. While discussing Shri U. C. Patnaik's Bill to amend the Indian Arms Act of 1878, Shri Katju said as to what should be our approach to the new Bill, to which I would like to draw the attention of the hon. Minister. Shri Katju said as follows:

"I am quite willing to subscribe to the doctrine that the whole of this Arms Act, as my hon. friend, Shri Tek Chand said, requires reconsideration, revision and review. You may enact the same thing if you consider it desirable, but then the stigma which attaches to the Arms Act of 1878 will disappear. What is required really is that keeping in close view our national requirements, the requirements of the situation, on the one side the desirability that every citizen should have an opportunity for defending himself, and on the other, the desirability that peace should not be endangered—keeping everything in view, this Parliament should enact that law, so that people may feel that it is something of our own which we have enacted."

Now, that should be our approach. I would like to categorise this approach in three parts.

The first point is the desirability that every citizen should have a right to defend himself.

The second point is that internal peace should be maintained in the country and that internal peace should not be endangered.

The third point is the national requirement. Keeping these three points in view, let us see how far this present Bill meets the situation.

It is an inherent right of an individual and a free citizen to be able to defend himself. All the legislations that we pass should be based on this right commensurate with the maintenance of peace of the country. This Bill, as it stands now, does not meet the situation. I find from the provisions of the Government Bill that it gives wide powers to the licensing authorities, even in respect of the smooth bore guns having a barrel less than 20 inches, to be used for protection or for sport. Likewise 22 inches bore rifle cannot be given unless certain conditions are satisfied. Section 13, as the hon. Minister was pleased to remark, is a mandatory provision allowing the licensing authority to give licenses in respect of certain categories. The result is going to be that those people have to pass through certain hurdles to get the licences. As my hon. friend Shri Sharma pointed out, it will not be difficult to prescribe certain procedures. If you really want to liberalise the provisions of the Arms Act, you should really eliminate these categories and the principle of licensing also, and there should be only registration. We have got such a system in the Western countries. I would not agree with the view that the indiscriminate grant of licences would endanger the peace of the country. I am not going to subscribe to that view. I originally come from a State in N.W.F.P. which was a part of pre-partitioned India. There in certain parts, no licenses were required for keeping arms, and persons who keep arms who endanger even for manufacturing arms. It is not the peace of the country. It is only the disarmed condition of the people and unlicensed arms that endanger peace. That is my feeling. From my experience at the Bar I can say, if you take the offences committed there, you find that the offences come from the unlicensed section and not from the licensed section. If any offences are committed by the licensed section, it would be due to provocation or some other reason. I would submit to the House that clause 17, sub-clause 3(b) nullifies the mandatory

provisions of section 13. It lays down that if the licensing authority deems it necessary for the security of the public peace to suspend or revoke the licence, he may do it at any time. What you give by one hand you take away by the other. This provision does not meet with the situation and does not liberalise the restrictions relating to arms.

The third approach which I suggested is the national requirement. The old Act was intended to enslave the people and to take away the fighting spirit in them. But now the national requirement demands that the people should be armed. In the present state of affairs in the world, with all the developments in war technology, in armaments and all that, you will concede that there is no line of defence now left. Then, the Armed Forces cannot be of much use. Future wars will be more in the nature of people's war. And it is not on the soldier but on the civilian that the duty will devolve to save his country. There should be a sort of resistance force for this purpose. And how can we a resistance force unless the people are armed, unless they have practice in arms, and they know how to use the arms? And how can they learn to use the arms unless you give them arms freely?

15 hrs.

Therefore, my respectful submission for the consideration of Government and this House is that the exigencies of the time and the conditions now demand that there should be free arming of the people, so that they would be able to use the arms when required.

The restriction in clause 13 that it is only the members of a rifle association that can carry a .22 bore rifle or the restriction that nobody can carry a revolver or a pistol even is, I submit, a restriction which the present conditions do not call for. Therefore, I would submit that the present Bill does need drastic change

[Shri Ajit Singh Sarhadi]

It does not meet the situation at present. It does not keep in view the approach that Dr. Katju had laid down in 1953 as regards the shape of the Bill that was to be brought forward. The present Bill is not liberal at all, for, not only does it place restrictions in regard to the taking of the licences but it also empowers the licensing authority to revoke the licence at any stage.

So, from whatever aspect we look at this Bill, we find that it does not meet the situation at all. I am sure the Joint Committee will be well advised to liberalise this Bill to a very large extent and allow the people to carry arms or at least arms of a small kind.

Dr. M. S. Aney (Nagpur) The present Bill has been criticised and to some extent rightly criticised by some of the hon. Members who have spoken before me. But I wish to bring to the notice of the House one fact, namely that the motion before the House is to refer this Bill to a Joint Committee. And this motion gives an opportunity to the House to discuss the principles which should guide the Joint Committee in considering the Bill when it goes before them. From that point of view, whatever defects there may be in the Bill, if the broad principles laid down are touched so as to enable us to put all our suggestions before the Joint Committee, then there is no reason for us to despair. On the other hand, I would like to congratulate Government for having come forward before the House with a Bill of this kind.

You can imagine that the Act which is going to be amended or replaced by this Bill is of 1878. That is, more than eighty years have passed since that Act was passed. That Act was passed when we were subjects of a foreign people, the Britishers who were dominating over us. They made laws for certain purposes, and these Acts have been going on from those days till the present time. In fact, one of the grievances which I have

always been feeling against the present Government of the Union is that although nearly twelve years have passed since we achieved Independence, and we have been thinking of progress in all directions in this country, yet, on two points, I find that there is not the same enthusiasm to make progress as there is in the case of economic and other matters; and those two points are the question of defence and the question of arms.

I find that national planning commissions have been appointed which are exclusively confined to matters of economic upliftment of this country. Gradually, even the scope of that economic uplift has been so expanded as to include the question of education, health and everything else. But even in that broader conception of the uplift—I have tried to read through those reports—I find that there is not that same enthusiasm for the improvement of our defence and for the improvement of our people as a martial and a fighting people, people who will be capable of defending themselves in any emergency. I have found that loophole there; I have found that enthusiasm lacking all along in the progressive steps which we have been taking for all these years. Of course, I do not want to minimise the importance of those progressive steps. India has to make a march, and India has to come up to the level of other countries, and we have to adapt ourselves to the new economic and social ideas which are coming in. But none-the-less I cannot consider a country as sufficiently cultured, sufficiently improved, and sufficiently civilised if it is lacking in its arrangements for defence and it has not trained its people to protect themselves against odds internally, and also to repel the enemy in case the country is invaded.

The Arms Act had kept the country and its men permanently crippled, always dependent on the foreigners. They had to look to the foreigners

for their protection in case any difficulty came in. In fact, the Act of 1878 was an Arms Act which was there for the purpose of taking away the arms of the people and giving them arms only at the pleasure of the foreign government, whenever they wanted it and on such conditions as they had liked to impose. That was the policy underlying the Arms of 1878, and that policy has been going on from 1878 till this day. Therefore it was rather one of the major things which our Independent Government ought to have taken up in their hands as early as possible for amendment. But, I say, better late than never. I really thank my hon. friend Shri U. C. Patnaik for having awakened the conscience of our Government to an important matter of this kind by frequently putting questions, bringing forward Bills and doing a thousand and one things, and Government, though it may be a belated step according to the ideas of certain people, ultimately came forward to give the promise that they would in course of time bring forward a Bill to consider the whole question of an comprehensive amendment of the Arms Act, and the present Bill which is a consolidating Bill is placed before us for that purpose in accordance with that promise. So, Government have taken, in my opinion, a step in the right direction. If this Bill contains certain defects, it is for the Members of the Joint Committee to sit round the table and discuss the matter in the proper way, bearing in mind the two main principles which have been laid down in the Bill to guide them.

The main principles have been laid down very well by the hon. Minister in his speech while moving the motion for reference of this Bill to a Joint Committee. The first principle is that the Bill contains only the minimum restrictions necessary in the interests of the security of the country and the maintenance of public peace. So, Government's idea is to keep the restrictions to the minimum. It is

for the Joint Committee to see that the restrictions are kept to the minimum, or whether they can still reduce them to a lower limit for the sake of keeping the restrictions to the absolute minimum. It is within their power to do that. That is one of the principles. The second principle is that every effort has been made to protect the legitimate interests of all citizens in the context of the independent status of the country. India is an independent country. We claim to be on a par with all the civilised countries in the world. In fact, we feel proud that in spite of our being a new democracy, or perhaps one of the youngest democracies which has come into existence, we claim a certain status in the civilised world, and we claim a certain position in the world. We have to consider the status which the Indian citizens have acquired not only as citizens of India but as citizens of the world, a world which India is pledged to usher in, a world full of hope for peaceful men of the world to live hereafter. The Indian citizen is going to be a citizen of that kind. Are the restrictions put here consistent with the status of an Indian who is not a citizen of his own city, State or country even, but is a citizen of the world, who is going to be a citizen of the civilised world hereafter? That is the point we should think of. I have no doubt that the progressive ideas of the Members in the Joint Committee will be brought out in the deliberations very clearly and that the Bill will emerge as a more progressive measure than it appears now. There is no reason to be pessimistic about that.

The impression that the history of the evolution of the world has produced on my mind is that its progress has been measured by the progress it has made in the kind of arms from the earliest times to this day. The first age was called the stone age, and then came the iron and other ages and with that the history of evolution was practically over according to the theorist, but in reality it was followed by the age of gunpowder. It is also

[Dr. M. S. Aney]

going out and the age of scientific warfare has rushed in, and before it could become stable, the age of nuclear warfare has come in. The arms are making progress like this. In defining arms we should bear all these things in mind. What was a popular and effective arm yesterday may not be so today; what is arm today may not be tomorrow. In that way we have to look at the requisite quality of the article which is to be called an arm, and revise the definition from this point of view.

This country believes in the goodness of every man, that every man has something innately divine in him, that he is not possessed only of evil ideas. That is the presumption on which the entire democracy is based, and we have accepted it. We are making a bold effort to make a success of the largest democracy in the world by adopting universal suffrage. Our Arms Act should be so moulded as to make it clear that it is not mere theory, and that we are not afraid of arming our people in the same way as men are armed in other countries.

Therefore, in making this law we may keep before ourselves the arms law existing in the U.K., the U.S.A., and other civilised countries. I do not know what the law is in the U.S.A., but the hon. Minister must know something about it. Let us see the conditions under which arms can be had easily and without difficulty in other countries, and if there is some difficulty in adopting them, we can make some slight changes here and there. These general considerations may be borne in mind and the Bill may be approached from this standpoint by the Joint Committee.

I think the Government must be thanked for giving us an opportunity for giving due consideration to this question which has been a standing grievance for so many years. For fifty years and more the Indian National Congress had been crying every year that this Act must go. Now for twelve years we have been

an independent nation. At least now we should change it in such a way as to make the world feel that India not only wants peace for everybody else, and asks other people to live in peace, but has also got confidence in its own people. It does not mind the most dangerous weapons being possessed by its citizens. Of course, I do not mean to say that we should be reckless and not sufficiently cautious, because we know our own conditions, but as law-makers, as the accredited representatives of the people, hon. Members should approach their work in the Joint Committee in such a way that they make it a model Act. In this hope I give my support to the motion which has been moved by the hon. Minister.

Shri Supakar (Sambalpur): I feel that this Bill should have come before the House at least ten years ago.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Better late than never!

Shri Supakar: We feel that in the context of the crippling effect of the Arms Act of 1878, in view of the atmosphere of non-violence that has been prevalent in this country for about a century, in view of the danger our country is threatened with from its neighbours and the refusal at the same time of our Government to give an opportunity to organise a civil defence organisation in the country, the importance of a Bill like this cannot be over-emphasized.

Although the intention of the hon. Minister is very good and he claims that this Bill seeks to liberalise the provisions of the Act, there is reason to doubt how far the intention will succeed in practice.

In order to justify his contention that this Bill is more liberal than the existing Act, the hon. Minister put forward the argument that now firearms are being licensed, and so far as arms defined in clause 2(1)(c) are

concerned, there is only the restriction contained in clause 4, otherwise people are free to use them

It is also contended that the provision of licences as contemplated in clause 13 is very liberal inasmuch as it makes it almost obligatory on the part of the licensing authority to issue a licence, but what is given with one hand is taken away by the other, as you will find from clause 14 where certain very stringent restrictions are provided which will place the licensing authority in the same arbitrary position as he used to enjoy under the Act of 1878

I have compared this clause with the provision prevalent in other countries, especially the British law, but this provision which gives a very arbitrary power to the licensing authority will not be found anywhere else. I refer to clause 14(3) where it is stated

"Where the licensing authority refuses to grant any licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement"

Sir this nullifies the advantage given to the applicant for a licence under clause 18 where there is a provision for appeal. Where the licensing authority furnishes absolutely no reason and says that for purposes of security he is refusing to give it and refuses to give anything in writing, then, what is the basis on which the aggrieved person can go in for appeal? So, if we compare this clause 14 with the provision in the original Act we will find that there is ample justification for the doubts expressed by some of the hon. Members of this House that the provisions of the present Bill are not at all liberal as compared with the original Act

I will place some points for the consideration of the Joint Committee, regarding this clause 14 which deals with the refusal of licences and on which there has been some debate. It is said

"(1) where such licence is required by a person whom the licensing authority has reason to believe—

(1) to be prohibited by the Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or

(2) to be of unsound mind, or

(3) to be for any reason unfit for a licence under this Act, or

(ii) where the licensing authority deems it necessary for the security of the public peace to refuse to grant such licence"

These sub-clauses give more or less a subjective power to the licensing authority, and I do not know how far under these restricted conditions the appellate authority will be in a position to help the applicants for licence

Then there is a clause for the refusal of licence to minors or persons who have been convicted for offences involving moral turpitude and who have been sentenced to imprisonment for a term of not less than 6 months etc. I am referring to clause 9. It says

(ii) who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for a term of not less than six months, at any time during a period of five years after the expiration of the sentence, or

(iii) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1898, a bond for keeping the peace or for good behaviour, at any time during the term of the bond."

[Shri Supakar]

The British law which is much more liberal than the law prevalent in this country provides some other restrictions. It does not grant licences to persons who have been under preventive detention and persons who have been sentenced to any kind of imprisonment for a term exceeding three months. There is no question of moral turpitude or violence because there are certain offences which justify the suspension of licence although they may not involve a question of moral turpitude. For example, there are those people who do offend against forest laws and those who destroy the wild animals recklessly because they possess certain licence. They are punished under the forest laws. That does not involve moral turpitude. In such cases, I would submit that more strict action should be taken against them. In order to strike a balance, I would submit that there should be more liberal granting of licences to persons who apply for them not merely because there is a necessity of the protecting their crops for food purposes but for the dire necessity that the country should be prepared

Mr. Deputy-Speaker: The hon. Member should conclude now.

Shri Supakar: I will conclude, Sir.

More and more persons should learn how to use arms. It is a necessity. There should be a more liberal grant of licences and those who commit offences against the Arms Act should be punished more severely as was submitted by my hon. friend Mr Bharucha.

Shri Eungang Suia (Outer Manipur—Reserved—Sch. Tribes): Mr. Deputy-Speaker, Sir, I had no thought or mind to speak anything about arms or defence because, before I speak, I have to confess to the peculiar conditions in which I find myself today. I being a Naga and though I am a Member of Parliament my sincerity is doubted and again being a member

of this House, my own people doubt my sincerity for the future good of the Nagas. That is why up to this time I have been keeping silent regarding arms and defence.

My own people are in rebellion. So, I thought it wise for me not to speak for defence. But, today the way the amendment is put before us and the way the Home Minister is praising his amendment by repeating the words 'liberalising' it hurts me like anything. It is very unfortunate to find that our Government is behind the times.

While speaking about this Bill, let me say something about the remarks made by one of our hon. Members. He said that Government is taking the right step. But I say Government is taking the wrong step or the slow step. Is it the time for us to talk about the question of restricting and liberalising the grant of arms licences to villagers? I do not think it is the right time. It is time for us to take action before legislation takes place. We have to see what other people are thinking or doing something against us from behind. We have to be careful. This is not the time for restrictions.

While the hon. Member says that it is the minimum amount of restriction I say it is the maximum amount of restriction. Let me tell you from my own experience. In 1949, I found that my gun was not suitable for my use. So, I exchanged that gun for a buffalo, and then applied for the renewal of my licence. What do I find today? I do not know where my petition is. It is 10 years now. Can I expect like the hon. Member who spoke—that the minimum amount of restriction will be there, I say, by putting the word minimum, it will be maximum restriction for the villagers.

Mr. Deputy-Speaker: But the buffalo is there.

Shri Eungang Suia: If my words are not parliamentary I beg pardon of the House.

Some hon. Members: They are parliamentary

Shri Rungsung Suika: I feel it very much

I am a villager, though I am standing on the floor of this House I am a person who works with my own hand and who produces crop and I find that the birds and animals destroy my crops, which I cannot bear it to see It is not a man who lives in the town who needs not use of arms But it is the man who works in the field and feeds the nation He should have arms Let us think of our economy If I find that at least one-tenth of my produce are robbed away by wild animals and beasts How can you expect me not to possess arms You may not believe me but I am a hunter This tip of my hand is a witness, I lost this tip while fighting with an animal, hand to hand. Wild animals, beasts and birds are so numerous that we cannot get all the products of our fields at the time of harvest In July, August, oh, what an elevation of spirit we feel within our selves We see our crops very good We feel that there would be a good harvest next year but in October the animals and birds are there to eat them away The statesmanship of India is regarded high in the whole world But what do they want? Unfortunately, when I say this, I am not minimising the importance of others, but to speak the truth, we have to bow down to a small country like Burma in asking for rice Is it not humiliation for us, for our leaders? Let us think of it

An hon Member has said that the arms of today may not be the arms of tomorrow But I say to him with all respect unless a man learns A, B, C how can you expect him to pass the Master's course It is impossible The arms of tomorrow will be the improvement of the models we use today. Unless we know how to use the arms of today, how can we use the arms of tomorrow, can we wait for them? We are living today, not tomorrow,

and we have to train the people of tomorrow from today. Today is what we have done yesterday and tomorrow will be what we do today That is the way we should look at things. Now, let me come to the amendment before us Is this the way to do things? Do you think that the Government is in advance of the times or behind the time I say? It is far back way, behind the time We are speaking here again and again. But Pakistan has determined against our stability We think that our army will defend I am not a soldier technically But practically I am a soldier. In 1944, I was caught in the War I marched from Kohma to my village, between two armies I was with the soldiers and I know what is the tactics of hit and run policy and how to embarrass and how to demoralise the army We have found the use of the small arms and the Infantry are the ones who win the battle Do you think that our army can defend our borders? No, I do not think You may not agree I do not know if we have to use nuclear weapons, I am not an expert in that field But so long as you are not going to use them, what is to be done? I say that our army should not be used or should not be taken as the machinery for defence It should be the machinery for training the population and we shall find the use of small arms most useful That is the way we have to take things We have to face facts The facts stare straight into the face. Unless we teach our people to use arms, these ordinary arms, how can we expect them to go and defend their freedom and not to go back and bend on their knees like this (Laughter.)

Mr. Deputy-Speaker: Order, order. He may be a villager. There are certain principles that must be observed here. He cannot walk away and act like this It is only what he speaks that is to be recorded and not other things.

Shri Rungsung Suika: I beg your pardon, Sir. It hurts me We have to see facts as they are. From the

[Shri Rungsung Suisa]

national point of view, we have to encourage the villagers to use arms. We must give them arms at concessional rates, if we cannot give them free. How can you expect them to defend your freedom and learn to defend theirs? You use the police in defending the villages now but if you give arms to the villagers, they will defend themselves. Let us give arms to the villagers in place of police, how can we provide police to defend the villagers, let them defend themselves. Then let us say to the villagers: "you feed your own stomach; nobody is responsible to feed your stomachs". If so, then you have to defend your crops. For that you must buy arms and use them. We should say: even if you cannot buy the arms and pay the price, we are going to give you arms at concessional rates and the amount may be paid after two or three years. Can we not do this? Is it too hard? I ask this question very sincerely. Instead of going to foreign countries and asking for rice, can we not ask our villagers to protect our rice crops and feed the people? We have to see things from the practical point of view. A person who has got to learn things from books only can say impractical things. If the question of starvation comes, when the question of the protection of our freedom comes, when the question of our defence comes, when it is a question of the defence of our country, it is not the Parliament which will defend but it is the villagers who will do it. They are eighty per cent of the people and they will defend the country. I say that the Government must realise the facts as they stare us in the eyes and not in the face. What are the conditions today? If we go on only making eloquent speeches on this and that, and changing from this section to that section, I am sorry to say that the time will be too late for us.

Some Hon. Members rose—

Mr. Deputy-Speaker: The hon. Minister. I am sorry I cannot call any other hon. Member.

Pandit Thakar Das Bhargava (Hisar): Sir, I want to speak only for two or three minutes.

Mr. Deputy-Speaker: The hon. Minister may take 20 minutes. At 4.00 we have to take up another discussion.

Shri Datar: He may be given three or four minutes, Sir.

Mr. Deputy-Speaker: All right.

पंडित ठाकुर दास भार्गव : जनाब डिप्टी स्पीकर साहब, इस मौके पर मेरा इस धार्मिक ऐक्ट के डिटेल्स में जाने का कोई सवाल नहीं था । मैं हाउस को एक बात याद दिलाना चाहता हूँ । जब महात्मा जी ने एक चिट्ठी लिख कर एक प्रपोज के हाथों उस वक़्त की गवर्नमेंट के पास भेजी थी तो उसमें जो सब से बड़ी शिकायत उन्होंने की थी वह कि उस गवर्नमेंट ने हिन्दुस्तान को जिस धार्मिक कर दिया और इस तरह से सब को एन्स्लेव कर दिया । महात्मा जी का मशवा था कि मुल्क की पार्लियामेंट में जो पहला कानून बने वह धार्मिक ऐक्ट को मसूल करने वाला हो ।

मैं स्विटजरलैंड में गया तो पता चला कि दुनिया की कोई ताकत पिछली बड़ी लडाई में स्विटजरलैंड की तरफ इसलिये ध्यान उठा कर नहीं देख सकी कि वहां २४ घंटे के अन्दर मुसल्ला मर्द और औरतों की पांच लाख फौज तैयार हो सकती थी ।

जब हम अपना कास्टीट्यूशन बना रहे थे तो, मैं हाउस को याद दिलाना चाहता हूँ हम फंडामेंटल राइट्स में राइट टु बिश्नर धार्मिक को भी शामिल करना चाहते थे । लेकिन उस वक़्त की गवर्नमेंट के यह कहने पर कि धार्मिक ऐक्ट में उसका लिहाज रखा जायेगा, हमने उस राइट को फंडामेंटल राइट्स में दाखिल नहीं किया । मैं अब से धार्मिक करना चाहता हूँ कि गवर्नमेंट ने जो बिश्नर

बनाया है उसके बारे में कोई बात शिकायत नहीं करना चाहता क्योंकि हमारा और उनका एक ही प्वाइंट प्राफ़ है। लेकिन मैं ज्वाइंट कमेटी के लिए यह प्रार्थना करना चाहता हूँ कि वह इस बिल को इस लिहाज से देखे कि हम राइट टु विभर आर्म्स को फंडामेंटल राइट्स में शामिल करना चाहते थे।

आज हम जब बंगाल की तरफ देखते हैं तो पाते हैं रोज़ हाउस में यह शिकायत की जाती है कि दो सौ पाकिस्तानी हमारी सरहद से आये और लोगों को लूट मार कर चले गये। इसी तरह से हम आगरे और मुल्क के दूसरे हिस्सों के बारे में पढ़ते हैं कि बाकु पाते हैं और लोगों को लूट कर चले जाते हैं और वह उनका कुछ नहीं बिगाड़ सकते। एक अच्छी गवर्नमेंट इसका यही इलाज कर सकती है कि राइट टु विभर आर्म्स को फंडामेंटल राइट्स में शामिल कर दे। मैं चाहता हूँ कि आजाद हिन्दुस्तान में हर शास्त्र, जो आर्म्स रखने का हक़ होना चाहिए।

सन् १९४६ में हम कांग्रेस के मेम्बरो के पास जो बीस बीस तीस तीस माल से आर्म्स थे उनको उस वक़्त की गवर्नमेंट ने ज़ब्त कर लिया था क्योंकि वह समझती थी कि वह पब्लिक इंटेरेस्ट में नहीं है कि हम आर्म्स रखें। मैं चाहता हूँ कि यही बरताव यह सरकार उन लोगों के साथ न कर सके जो कि कांग्रेस के नहीं हैं। मैं चाहता हूँ कि हर हिन्दुस्तानी को आजाद हिन्दुस्तान में आर्म्स रखने का पूरा हक़ होना चाहिए।

मैं चाहता हूँ कि इस बिल को इसी प्वाइंट प्राफ़ से देखा जाये। मैं और कुछ नहीं कहना चाहता।

Shri Datar: Mr. Deputy-Speaker, Sir, I was happy to find that there is a considerably large measure of support . . .

An Hon. Member: Opposition.

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Shri Datar: Let the hon. Member wait—... to the principles enumerated in this Bill, and also a growing sense of appreciation that Government have gone to a very large extent. I was surprised to find an hon. Member suggesting that the system of licensing should be done away with altogether. Another hon. Member suggested that radical improvements should be made in the provisions of this Bill.

I was prepared, Sir, for my hon. friend opposite, Shri Easwara Iyer's criticism that this Bill do not contain any improvements on the provisions of the Act of 1878. That was all that I expected from him, in spite of the fact that there are a number of substantial improvements. But may I tell you, I was not prepared at all for the very unfortunate and unrealistic criticism of my hon. friend, Shri D. C. Sharma. He complained that we did not take into account the realities of the situation. May I point out to him that his approach was academic in the wrong sense of the term, was highly unrealistic, because on a number of points he had not cared to note what the Bill has provided for.

I would like to tell all hon. Members that in the case of this Bill as also in respect of other Bills we take considerable pains. We consult the State Governments. We have also the advantage of the opinions of a number of private bodies. Only after considering all those things we have brought forward this Bill. It is perfectly open to the Joint Committee to make improvements as they deem fit. Therefore, I am prepared to point out to this House that on a number of points where highly constructive suggestions were made, the Joint Committee will look into the cases regarding these points with as much zeal as possible, because these things have got to be properly looked after.

I was happy, Sir, that a number of hon. Members including our elderly leader Dr. Aney pointed out the other side of the picture from the one that was painted, or over-painted, by

[Shri Datar]

certain hon. friends opposite and certain other hon. friends here also under a possible misapprehension. All the same, I should like to make a very short reference to some of the points that the hon. Members have raised.

Now, so far as the definition of the word "arms" is concerned, there was considerable misapprehension due to the fact that the Bill proceeded on the principle that ordinarily a licence will have to be required for firearms. There are, as I have already pointed out, circumstances like emergencies or otherwise, as I have explained, where it would be necessary to control the use or the exercise of all arms. That is the reason why the general definition of the word "arms" had got to be given.

But my hon. friends do not look at the substantial change that we have made, namely, that the question of licensing has been confined normally only to firearms. That is a point which ought to have been appreciated by the hon. Members. But that question was slurred over and, unfortunately, a wrong interpretation was put in. I made it very clear that ordinarily only licence would be required for firearms, but when an emergency arises then, perhaps, the Government will have to control, as I have stated, the use of all arms. That is why the word "arms" had to be defined in the manner that it was done. I have also pointed out that domestic articles have also to be excluded. That also is a factor which has to be duly appreciated.

Certain hon. Members made reference to some other sections, and they stated that we did not go as far as we ought to have gone. In this connection, a prominent reference was made to clause 9. So far as clause 9 is concerned, it deals with the classes or categories of what can be called, prohibited persons for the purpose of grant of arms. In clause (9) (1) (a) (ii) it has been made very clear that every conviction passed against a

person or every sentence that he has undergone does not *ipso facto* constitute a prohibition. We have put in very important expressions which ought to be duly noted. It will be found that in sub-clause (a) (ii) it is said:

"who has been sentenced on conviction of any offence involving violence or moral turpitude.."

Violence is a factor which, all would agree, has to be eschewed altogether. Therefore, violence has been put in. Moral turpitude also has been duly included here. Barring violence, barring moral turpitude, if there are any other convictions naturally they would not come under the mischief of this particular clause.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Otherwise all of us will be disqualified.

Shri Datar: Otherwise, as my hon. friend says, all of us will be disqualified. It is also stated here: "for a term of not less than six months".

Another hon. Member suggested that often-times securities are demanded, bonds have to be filed by a number of persons under the security provisions of the Code of Criminal Procedure and so on. Therefore, they suggested that we might further relax the provisions of the next sub-clause. Unfortunately, my hon. friend or friends who made a reference to this did not read the words in sub-clause (iii) which reads as follows:

"who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1898, a bond for keeping the peace or for good behaviour, at any time during the terms of the bond."

The last phrase is to be noted, namely, "at any time during the term of the bond." After the term of the bond has expired, *prima facie*, they would be

eligible for consideration and therefore, if these words are duly taken into account, they would see that all persons who have been bound over at some time in the dim past would not necessarily come within the mischief of prohibited persons, because the disqualification has been confined to "any time during the term of the bond". So, the difficulty that was felt or the misapprehension that was experienced by certain hon. friends is, I am afraid, entirely out of place.

Some hon. Members further contended that nothing has been done for agriculturists. So far as the agriculturists are concerned, we are anxious that as large a measure of grants as possible should be given to them. My friend Shri P. R. Patel has made out a case about the muzzle loading guns. That is a question which requires examination. I should like to go into it as early as possible.

Secondly, a number of hon. Members contended that the licensing authorities were only urban-minded and could not look after the interests of the rural population.

Shri Rungsung Sukta: It is a fact that cannot be denied.

Shri Datar: May I request the hon. Member to wait for sometime? It is true that till now we had the old Act of 1878, with rules made here and there. They were not full. Therefore, the Government have brought forward this Bill and proper rules will be made.

Another hon. Member, possibly Shri D. C. Sharma, went into a rhetoric over a number of clauses wherein rules have to be made. I wish the hon. Member had been here, and I wish he had read what we have stated about the delegated legislation. We cannot take away from the Bill those essential provisions or points or principles which have got to be included in the Act or the Bill. It has been clearly stated in the note which the hon. Member ought to have read: "These are either matters of procedure

or matters of administrative detail...". If we go beyond the scope of such a delegated legislation, then you are there to check up the whole matter and you are there to look to the interests of the House also.

May I, in this connection, further point out that whenever rules are made—and the rules, as I have stated, are confined only to details—it would not be proper and it would not be in conformity with the dignity, if I may say so, of the Bill that all the rules as to how much stamp has to be fixed, what is going to be form of application, etc., are to be mentioned. Such rules cannot be naturally included in the body of the Bill. They have to be mentioned only in the rules themselves.

Again, I may point out, as you are aware, a healthy convention has been evolved in this respect and clause 44(3) mentions as follows:

"All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following"

Therefore, if the rules are made, the rules would be placed here and they would be subject to the scrutiny of all hon. Members of the House. So, it should not be said that anything has been reserved. Even assuming it is so, the rules are further subject to the full scrutiny of the hon. House and if the House so decides, it can also amend or revise the rules. Therefore, I would submit that there is no point so far as this matter is concerned.

I have dealt with most of the points. I have only one point more. The Government cannot accept the position that arms can be got merely for the asking. My hon. friend Pandit Thakur

[Shri Datar]

Das Bhargava wanted to have such thing included as one of the fundamental rights. That was not accepted by the Constituent Assembly at all. Now, every man, every citizen of India, is entitled to hold arms, is entitled to possess arms and use arms subject to the conditions that have been laid down in this respect.

In this connection, may I point out that the rules that we have made and the provisions that we have followed in this respect are generally on a par with similar rules and provisions in other independent countries.

Shri Easwara Iyer: No, no.

Shri Datar: They are. To a large extent, we have also added on a number of occasions new provisions. We have introduced new provisions so as to bring them in line with modern currents of thought so far as the legislation in various other countries is concerned. Therefore, I may submit again that this is a liberalising measure. This is a measure where the number of restrictions that have been put down are to the lowest necessary limit. That limit has to be maintained and that limit cannot be forgotten. After all, even apart from our personal, fundamental rights, we have the obligation, the most sacred obligation, of looking after the security of the nation and maintaining law and order. Whatever some other friends may say, that is the most fundamental and primary duty of Government. So keeping all these things in view, what we have done is, as an hon. Member rightly pointed out, we have tried to follow the golden mean, and the golden mean, if I might suggest, is more on the side of giving larger rights to the people than on the side of putting in more restrictions.

Sir, I commend the Bill.

Mr. Deputy-Speaker: The question is—

That the Bill to consolidate and amend the law relating to arms and ammunition be referred to a Joint

Committee of the Houses consisting of 45 members, 30 from this House, namely—

Shri Upendranath Barman, Shri Missula Suryanarayanamurti, Rani Manjula Devi, Shri Bibhuti Mishra, Shri Mohammad Tahir, Dr. Gopalrao Khedkar, Shri Chhaganlal M. Kedaria, Shri M. K. M. Abdul Salam, Shri R. S. Arumugam, Shri Vidya Charan Shukla, Shri K. R. Achar, Shri Mathew Maniyangadan, Shri Bakt Darshan, Shri Jagan Nath Prasad Pahadia, Shri Raghubir Sahai, Shri Ansar Harvani, Shri Devanapalli Rajiah, Shri Bangshi Thakur, Shri Radha Charan Sharma, Shri Satis Chandra Samanta, Shri Ranbir Singh Chaudhuri, Shri Hirendra Nath Mukerjee, Shri K. K. Warrior, Shri Mohan Swarup, Shri Shambhu Charan Godsora, Shri Thakore Shri Fatesinhji Ghodasari, Shri Uma Charan Patnaik, Shri Atal Bihari Vajpayee, Shri Shankarrao Khanderao Dinge, and Shri B. N. Datar.

and 15 members from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee,

that the Committee shall make a report to this House by the first day of the next session,

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make, and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee.

The motion was adopted.