

LOK SABHA

THE ARMS BILL, 1958

(Report of the Joint Committee)

with evidence.

PRESENTED ON THE 10th AUGUST, 1959



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LOK SABHA SECRETARIAT
NEW DELHI
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THE ARMS BILL, 1958

Composition of the Joint Committee

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Rani Manjula Devi
4. Shri Bibhuti Mishra
5. Shri Mohammad Tahir
6. Dr. Gopalrao Khedkar
7. Shri Chhaganlal M. Kedaria
8. Shri M. K. M. Abdul Salam
9. Shri R. S. Arumugam
10. Shri Vidya Charan Shukla
11. Shri Shri K. R. Achar
12. Shri Mathew Maniyangadan
13. Shri Bhakt Darshan
14. Shri Jagan Nath Prasad Pahadia
15. Shri Raghubir Sahai
16. Shri Ansar Harvani
17. Shri Devanapalli Rajiah
18. Shri Bangshi Thakur
19. Shri Radha Charan Sharma
20. Shri Satis Chandra Samanta
21. Shri Ranbir Singh Chaudhuri
22. Shri Hirendra Nath Mukerjee
23. Shri K. K. Warior
24. Shri Mohan Swarup
25. Shri Shambhu Charan Godsora
26. Thakor Shri Fatesinhji Ghodasar
27. Shri Uma Charan Patnaik
28. Shri Atal Bihari Vajpayee
29. Shri Shankarrao Khanderao Dige
30. Shri B. N. Datar.

Rajya Sabha

31. Shri Ahmad Said Khan
32. Shri Har Prasad Saksena
33. Shrimati Maya Devi Chetty
34. Shri B. Parameswaran
35. Shri Narotham Reddy
36. Shri Onkar Nath
37. Thakur Bhanu Pratap Singh
38. Shri Govind Chandra Misra
39. Sardar Raghbir Singh Panjhzari
40. Shri P. N. Rajabhoj
41. Shri N. C. Sekhar
42. Shri Faridul Haq Ansari
43. Shri Anand Chand
44. Shri B. D. Khobaragade
45. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri S. L. Shakhder—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

Shri P. K. Patnaik—*Under Secretary*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the Bill* to consolidate and amend the law relating to arms and ammunition was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 18th December, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Lok Sabha by Shri B. N. Datar, the Minister of State in the Ministry of Home Affairs, on the 23rd April, 1959 and was discussed and adopted on the same day (Appendix I).

3. The Rajya Sabha discussed the motion on the 28th, 29th and 30th April, 1959 and concurred in the said Motion on the 30th April, 1959 (Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 4th May, 1959.

5. The Committee held ten sittings in all.

6. The first sitting of the Committee was held on the 8th May, 1959 to draw up a programme of work. After a preliminary discussion the Committee felt that it would be advantageous to take evidence from associations and other desirous of presenting their suggestions or views before the Committee and that a press communique inviting memoranda should be issued for the purpose. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to who should be called to tender oral evidence before the Committee.

7. 15 memoranda/representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

8. On the 13th and 14th July, 1959, an exhibition of different types of arms was arranged in the Parliament House for the benefit of the members of the Committee.

*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 18th December, 1958.

9. At the third, fourth and sixth sittings of the Committee held on the 14th, 15th and 18th July, 1959 respectively, the Committee heard the evidence given by the Home Secretaries to the Governments of West Bengal, Uttar Pradesh and Punjab and certain other witnesses shown in Appendix IV.

The Committee decided that the whole of the evidence given before them should be laid on the Table of the House.

10. At their fifth sitting held on the 16th July, 1959, the Committee had a general discussion on the important provisions of the Bill. At their sittings held on the 20th, 21st and 22nd July, 1959, the Committee considered the Bill clause by clause.

11. The Committee considered and adopted the Report on the 4th August, 1959.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause 2.*—An amendment of clarificatory nature has been made in sub-clause (1) (e) (iv).

The Committee feel that bombs, grenades and other such arms and ammunition should also be included under the definitions of 'prohibited ammunition' and 'prohibited arms' in items (h) and (i) of sub-clause (1).

The clause has been amended accordingly.

14. *Clause 3.*—The Committee feel that in the proviso to the clause the words "for purposes of sport" should be omitted so that the proviso will cover all *bona fide* use of firearms including sport.

The clause has been amended accordingly.

15. *Clause 4.*—The Committee feel that, in order to avoid hardship or inconvenience to the people living in an area covered by the notification should specify the categories of arms for which licences would be required.

The clause has been amended accordingly.

16. *Clause 5.*—The Committee consider that licence should be required for manufacture, sale, etc., of firearms or ammunition of every description, but as regards other arms they feel that the rules should specify the arms for whose manufacture, sale, etc., licences would be required. So far as sale or transfer by a person of his own arms referred to in the proviso is concerned, the Committee feel that his obligation to inform the authorities of the sale or transfer

should be only in respect of such arms or ammunition as required a licence under clause 3 or clause 4.

The Committee feel that the clause should also include cases of conversion of firearms or ammunition.

The clause has been amended accordingly.

17. *Clause 8.*—The Committee feel that the time-limit of six months under the proviso to this clause should be raised to one year.

The clause has been amended accordingly.

18. *Clause 9.*—The Committee feel that the minimum age limit of persons competent to acquire firearms etc. should be sixteen years instead of eighteen years.

The Committee further feel that instead of specifying in the Act itself the age limits of persons who may receive training in the use of firearms, the age limits should be prescribed by rules.

The clause has been amended accordingly.

19. *Clause 10.*—The clause has been amended with a view to clarify the intention, *viz.*, to afford better facilities to *bona fide* tourists visiting this country.

20. *Clause 13.*—The Committee feel that in order to remove any doubt it should be provided under sub-clause (3) (a) (i) that for *bona fide* crop protection a licensing authority may grant a licence for other smooth bore guns, if it is satisfied that a muzzle loading gun will not be sufficient for such protection.

21. *Clause 14.*—The Committee feel that in sub-clause (1) (b) (ii) the intention may be clarified by adding the words “or public safety” after the words “public peace.”

22. *Clause 17.*—Amendment similar to the one made in clause 14 has been made in this clause.

23. *Clause 19.*—The Committee feel that under sub-clause (2), a police officer may seize arms or ammunition which a person is carrying only in case he considers it necessary to do so.

The clause has been amended accordingly.

24. *Clause 21.*—The Committee consider that the time-limit within which a depositor or his legal representative may give his explanation under sub-clause (4) may be raised from fourteen days to thirty days.

The clause has been amended accordingly.

25. *Clause 35.*—The Committee feel that the onus of proof laid on persons in joint occupation or joint control of premises should be restricted, and only such persons in respect of whom there is reason to believe that they were aware of the existence of the arms or ammunition in the premises etc. should be held liable unless the contrary is provided.

The Committee further feel that the clause should also apply to arms and ammunition found in vehicles besides premises and other places in joint control or occupation.

The clause has been amended accordingly.

26. *Clause 44.*—The amendment made in sub-clause (3) incorporates the new laying formula which has been agreed to by the Committee on Subordinate Legislation.

27. *Clause 45.*—The Committee feel that the forces mentioned in sub-clause (b) (iii) may also include such other forces as may be specified by notification by the Central Government.

The clause has been amended accordingly.

28. The Committee recommend that Government might—

- (1) consider whether a provision could be made in the rules for allowing a licence to use temporarily, for purposes of sport another licence's firearms of the type for which he holds a licence;
- (2) examine the question of providing in the rules for transport of properly packed firearms through an area notified by the Central Government under clause 4;
- (3) give instructions to the State Governments to take a decision on applications for renewal of licences within a specified period.

29. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 8th August, 1959

UPENDRANATH BARMAN,
Chairman,
Joint Committee.

Minutes of Dissent

I

1. It is no doubt creditable on the part of the Government to have brought forward a Bill to amend the Indian Arms Act of 1878.

2. In the statement of Objects and Reasons, it has been stated:—
“The present Bill seeks in the main to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum while at the same time keeping in view the overall demands of public security and the maintenance of public order”. No sane person would disagree with the laudable objectives which the Government placed before them for the amendment of the old Arms Act. But it will be worthwhile to see how far it has succeeded in translating them in the body of the Bill, just considered by the Joint Committee.

3. The main difficulty experienced while the old Act was in operation was that peaceful, law-abiding but deserving persons who wanted arms for protection or safety but who were not otherwise resourceful enough, met with innumerable difficulties in securing the licence while those who would manipulate things and pander to the wishes of the authorities felt no such difficulty.

4. The present practice is that after an application for licence is received by the D.M., he calls for a report from the Police, the Tahsil and S.D.O. in charge of that Tahsil. On the basis of these reports, he makes a final decision either in favour or against granting a licence. But while these reports are being called for, the applicant is not only mulcted of money to satisfy the demand of the Police and the Tahsil but also made to deposit considerable sums of money in several funds in which the Government felt interested. That is a different thing, he may withdraw that money soon after, which does not serve the purpose of the Government, even though the object for which the money has been demanded may be quite laudable.

5. In such cases, it has been frequently seen that money is the chief consideration in determining the grant of a licence and not the eligibility of the man. How far that difficulty would be obviated by the passage of the amended legislation will be watched with great interest. There may be many persons who may not be able to meet the demands of the authorities for subscribing to this or that fund, yet they may be genuinely in need of an Arms licence for their personal safety or protection of their property.

6. True, under the new provision of clause 13, it has been provided that the licensing authority shall grant a licence for protection or sport or for *bona fide* crop protection if the applicant does not come under any of the disqualifications mentioned in clause 14.

7. But how to get over the long and tedious and often times irksome procedure of the application passing through the Police, the Tahsil and the S.D.O.

It would have been a welcome departure if it had been specifically provided in the rules to be framed by the Government that the eligibility of the applicant would be enquired into by the Gram Sabha wherever it existed. That would not only lend importance to that primary institution but would make the process of enquiry easy. It does not mean that any other kind of enquiry was held to be a taboo, but this one needs being given a fair trial.

8. It is equally necessary that inordinate delay should not take place in the final decision of the application and the time limit should be specified in the rules. The present practice of District Magistrate entertaining those applications and deciding them one way or the other and the Commissioner hearing appeals against the order of the District Magistrate should be modified to this extent that the entertaining authority should be the S.D.O., in charge of the Tahsil, who should pass final orders while the appeal should be heard by the District Magistrate. Thus going in appeal to another District, which is more expensive and certainly would take more time, would be avoided. The S.D.O. is the person who is expected to know who is who in his Tahsil and would be in a better position to decide the eligibility or otherwise of a person for a licence. He can decide those applications much more quickly. A provision like this should be incorporated in the rules as well.

9. Our object of "reducing the inconvenience to the public to the minimum" will not be attained until and unless the rules are so framed and the State Government issue instructions in this behalf to District Magistrates to see that unnecessary restrictions are not placed in the way of those who apply for licence.

10. In order that time may be saved in conducting enquiry from different sources, it may be provided in the rules that certain kind of information deemed most necessary may be stated in the application form which may be verified by an affidavit from the applicant. The licensing authority may attach such value to the affidavit as it considers necessary but he will certainly be in a position to pass final orders without any undue delay. In case any information given

therein or statement made is subsequently found to be unfounded, not only the licence can be cancelled and arms if issued taken back, but the applicant can be run in under sections 182 or 193 I.P.C. for having given false information.

11. Then again with regard to the "overall demands of public security and the maintenance of public order", which should be borne in mind at every stage by any Government worth the name, it is a well-known fact that unauthorised and country-made arms are very common in the countryside, responsible for most of the dastardly crimes like murder and dacoity whose number has arisen to an alarming extent, of late. I find in this Bill no such provision which would tackle with this problem in the most forthright manner. Perhaps, it has been taken for granted that such arms are there in plenty, we need not worry about them so much. We need only to be vigilant about the issue of fresh licences for legal arms, as it were. In my humble opinion, this is a policy of negation. We should have given a frontal attack to the possession of unauthorised arms and their manufacture on a wide scale in the country. Those who had occasion to see the weapons in the exhibition organised by the Government for the benefit of the members of the Joint Committee, would have seen with what care and precision some of those country-made weapons were manufactured and how deadly they could be.

12. The problem of law and order is a vital one and every law-abiding citizen would give his unstinted support to the Government in adopting measures to suppress lawlessness, to root out the mania of committing murders, dacoity and robbery with the help of the unauthorised arms thereby creating a feeling of insecurity in the countryside. In this matter too, the active co-operation of the Gram Sabhas should be welcomed for in ultimate analysis, it is the people of the village who are the worst sufferers. The rules should also provide relaxation of condition for obtaining licences in areas specially infested with dacoits or border areas open to the Pakistan attacks.

13. I am giving my general support to the provisions of the Bill subject to the considerations noted above and would expect that rules will be framed in the light of the two main considerations given in the Objects and Reasons of the Bill and instructions will be issued to the District officers to comply with them so far as it was humanly possible.

NEW DELHI;
The 4th August, 1959.

RAGHUBIR SAHAI.

II

The Indian Arms Act of 1860, as substituted by the Act of 1878 was intended to disarm the entire nation, and to make it impossible for another war of independence against British rule. It was inspired by a spirit of fear and distrust. As Mahatma Gandhi had put it, "Among the many misdeeds of the British rule in India, history will look upon the Act, depriving a whole nation of arms, as the blackest."

Due to the rigours of the Act and rules thereunder, law-abiding citizens have been finding it difficult to possess fire-arms for self-defence. In spite of the Act and Rules, however, terrorists, dacoits and other anti-social and anti-national elements are using not only civilian weapons but also Bombs, Grenades, Bren-guns, Sten-guns, .303 bore service rifles and revolvers of military type, as well as country-made fire-arms of dangerous varieties for perpetrating heinous offences against society and the State.

While there are certain welcome changes in provisions relating to the licensing of fire-arms, I cannot subscribe to the Bill even though it has emerged from the Joint Committee, in a somewhat improved form. I feel that the basic approach has not changed in spite of independence and there is still a lurking sense of suspicion and a lack of faith in our countrymen.

The discussion in the House on the Indian Arms (Amendment) Bill (No. 49 of 1953) introduced by me in the Lok Sabha and the opinions received thereon from many legal luminaries, Bar-Associations, Judges, Collectors, Senior Police Officers and local bodies have not all been taken into consideration. The present Bill, even as amended by the Joint Committee, does not satisfy the aspirations or requirements of a free country, for the following reasons:—

Firstly:—A major criticism of the existing Act of 1878 is that "Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows.....and parts of arms.....". In no other country are such articles banned as "arms"; there are some restrictions elsewhere only regarding "Firearms".

In India, too, in spite of the Act of 1878 it was found necessary to relax the restrictions under this definition. The tribesman had to use his primitive weapons for defence against wild animals; the Sikh had to bear his *kirpan* as a religious duty; the Gurkha his *kukri*; the agriculturist and householder had to possess some instrument which might come under the definition of 'arms'. Hence under Arms Rules, restrictions were withdrawn (*vide* Rule 3 and Schedule thereunder). There has been no adverse effect on the law and order situation since this withdrawal.

In the present Bill even as amended by the Joint Committee, "arms" means "articles of any description, designed or adapted as weapons for offence or defence and includes.....sharp-edged or other deadly weapons.....but does not include..... weapons, incapable of being converted into serviceable weapons". This gives a much broader connotation to "arms", than even the Act of 1878. Any sharp-edged or other article which can be adapted as a weapon of defence may come under this definition. The acquisition, possession and carrying of any such arms as may be specified in a notification may be banned in any area, in which case license will be required to be taken under clause 4. Manufacture, sale etc. of any arms as may be prescribed is banned under clause 5. Rules framed under clause 44 require a manufacturer or dealer in such arms to maintain records and accounts of transactions. Contravention of any of the aforesaid provisions will, under clause 25, make the person liable for 3 years imprisonment or with unlimited fine, or with both. Secret contraventions and intention to use such arms for unlawful purposes are punishable with seven years imprisonment or with unlimited fine, or with both. Under clause 35, "any arms.....in respect of which an offence has been or is being committed is found in any premises, vehicle or other place in the joint occupation or under joint control of several persons each of such persons in respect of whom there is reason to believe was aware of the existence of the arms in the premises. vehicle or place", is criminally liable.

The above provisions relating to so-called "arms" about whose connotation Government have not yet made up their minds, indicate the insecurity and difficulties that the new enactment will create in the country. If a notification is issued under clause 4, or if "arms" now being freely manufactured, sold and possessed are sought to be controlled under clause 5, there will not only be a heavy strain on the administrative and licensing machinery but it will also cause unnecessary harassment to persons who may possess, manufacture or sell such articles. One fails to understand why the carrying of such articles in emergencies cannot be prohibited under the provisions of the Criminal Procedure Code, or Police Acts.

There is no necessity for Government to reserve to themselves the right of depriving citizens, especially the poorer classes, who cannot go in for costly firearms, the meagre sense of security against burglars and wild animals, by possessing at least some sort of sharp-edged weapons for defensive purposes.

Secondly:—It is unfortunate that air-guns, air-rifles, air-pistols are also to be licensed. These toy weapons use small pellets and not cartridges; they are operated, not by any explosive substance

but by compressed air. They are much less dangerous than bows and arrows. They are useful only to scare away thieves or monkeys. They are also useful for young people to learn target shooting. No other country bans these air-weapons; on the other hand, they are being taken recourse to for spreading rifle-mindedness among the youth. Instead of banning, the Ordnance Factories with so much spare capacity, should be encouraged to take up their bulk manufacture. I hope that Parliament will exclude these toys from the purview of the Act.

Thirdly:—As regards firearms, the provisions are more liberal than the Act of 1878 as the word *shall* in clause 13 (3-a) is more emphatic than the word 'may' though in legal phraseology they mean the same. However, under clause 14 (b-3), the licensing authority, may, for any reason, refuse to grant a license; under clause 14(3) he can also refuse to give the aggrieved person a copy of the reasons for refusal if he considers it inexpedient to do so. Further, the liberalisation of the provisions may not be of great advantage to the public for some time to come, as the price of firearms and ammunition has gone up at least four times during the last two years, since imports were restricted. Considering that possession of and training in small-arms (breech-loading guns, rifles, revolvers etc.) is desirable to make the citizens in general and residents of border tracts and dacoit-infested areas in particular, defence-minded, relaxations should have been greater, and larger provision made for the grant of free licenses. The liberal provision relating to firearms in other countries, our own experience with regard to residents of Coorg and *ex-State* areas, shows that such liberalisation will not affect the law and order situation but will ultimately be in national interests. Moreover, in spite of the objects and reasons which state, "the bill seeks to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum". there is no provision to expedite the grant of licenses and renewals. It is hoped that suitable safeguards will be provided for in the rules in this regard.

Fourthly:—The penalty-clauses show that the bill has been mechanically drafted without keeping in view the overall demands of public security. The punishments prescribed are the same whether the infringements relate to "prohibited arms and ammunition" or to commonly used firearms and ammunition or to any other article like a dagger or sword-stick designed or adapted for offence or defence. Deterrent punishments should have been provided for offences in respect of prohibited weapons or for unauthorised import and export of weapons. No tenderness for anti-social and anti-national elements is desirable. It is unfortunate that the Minister of State in the Ministry of Home Affairs and the Joint

Committee did not agree to provide for enhanced punishments in such cases and for reduction of sentences in regard to minor infringements.

Fifthly:—I submit that the Bill should reflect the spirit of a free nation and recognise the right of the State to requisition the services of every citizen in emergencies. The possessors of firearms, shikaris, target-shooters and riflemen in general (in appropriate age-groups) will be of service to the country in emergencies if the Government can properly mobilise and utilise them. Hence in my Firearms Bill, 1 of 1959, I had proposed in clause 9 for the liability of holders of licenses and permits, except those excepted individually or in specified categories for call-up in national emergencies under terms and conditions as may be prescribed.

Lastly:—While revising the outmoded Arms laws, I appeal for a positive and not for a negative approach which is essential in every sphere of national life and activity. I am one of those who firmly believe that changes in the Arms Act should be effected with a view to enthuse the people and at the same time, to train and organise the youth of the country for better discipline and for national defence.

NEW DELHI;
The 6th August, 1959.

UMA CHARAN PATNAIK.

III

I take liberty to append the following few lines in order to express my personal disagreement regarding the Bill, apart from those provided therein.

The Indian Arms Act has an insipid history behind it. After Indian War of Independence of 1857 the British Rulers, being horrified by the armed might of the common man of India, deprived the whole nation of arms. They unarmed the people by putting ban on possessing and carrying the same. They denied the right of self-defence to every citizen; obviously their aim was to minimize the chances of an armed rebellion against the foreign rule, while apparently they argued that if people were permitted an unhindered use of arms, the horrible spectacle of organised crimes could break out all over the country. Thus the Indians, once famous fighters, were rendered mere strangers to the use of arms. This object was further achieved by Act XXXI of 1860 wherein the definitions of the expressions "Arms" and "Ammunition" were widened and the executive restrictions in the matter of grant of licences, not only in relation to manufacture and sale, but also to the use and

possession of arms were tightened. There was hardly any weapon of offence or defence which was not covered by the definition. Act XI of 1878 provided for disarming any Province, District or Village and made it unlawful for anyone to possess arms and ammunition without a licence. Thus the chivalrous nation of Rani Laxmi Bai, Tantia Tope and Tipu Sultan was cowed down, subjugated and totally emasculated.

How ludicrous it is that amended in minor details by Acts XII of 1891, XX of 1919 and XLIX of 1929, the spirit of Act XI of 1878 remains the same even now, when India became free from bondage.

It was only in December, 1958 that the Hon. Home Minister while replying to the debate on an unofficial Bill regarding the exemption of Muzzle Loading Gun from the definition of the Firearms Act, announced that a comprehensive Bill on Arms Law would be introduced very shortly. Expectations rose high that the Arms Laws will be liberalised and modernised to such an extent as to befit an independent nation. But to our disappointment all hopes have been shattered and a piece of legislation has been brought, which is a prototype of an old and hackneyed Arms Act of 1878 with minor changes here and there. The present law is full of teeth and with all dental operations it has accomplished little. It helps the crooks and hurts the law-abiding citizens. Definition of arms as given in the Bill should be confined only to firearms, but here in the Arms Bill, 1958 the term 'Arms' includes sharp-edged and other deadly weapons. I vehemently oppose this idea and suggest that this Bill should not include any weapons other than firearms. It is the birth right of every citizen to possess arms for the protection of his property and personal safety. But strangely it has reduced to nullity by refusing him to possess arms. Hence it is desirable that it should be named as "Fire Arms Bill, 1958" and not the "Arms Bill, 1958".

The Bill has only been liberalised to the extent that the licensing Authority cannot refuse "to grant any licence to any person, merely on the ground that such person does not own or possess sufficient property". But the term "sufficient property" has not been properly defined. In my opinion the license should be made available to any citizen of India except those who are either beggars or vagabonds or persons who are convicted for anti-social crimes.

During the discussion some of the members of the "Joint Select Committee" were of the opinion that a muzzle loading gun of the low velocity, .22 bore smallbore rifle of low velocity using rim fire cartridges and air rifles should be exempted from the restriction of a license as these are quite indispensable for crop protection.

But our wishes were not conceded to. In foreign countries the citizens are required to possess firearms not as a privilege but as a part of their duty towards their motherland. We as a nation are running deficit in food grains. It is essential that the minimum amount of our food crops may be damaged and this can only be achieved if the cultivators are induced to possess harmless muzzle loading guns and there should be no license fee for such arms.

The Sub-Divisional Officers should be authorised to issue licences for the muzzle loading gun.

I felt that the Gram Panchayats should be given the right to enquire into and recommend the application for the grant of a licence, as the Panchayats are better in the know of the conduct of the applicants than the executive authorities who take a lot of time to complete their report. But the Panchayats were held "irresponsible" by the Government. It is highly regrettable.

Further, I suggest it should be made obligatory for every applicant to undergo a training in handling a firearm before a licence is granted to him. In other countries the training in small-arms is not considered merely a right but a duty of the citizen. But in our country the arms usually pass on to the hands of untrained persons. It is unfortunate that firearms as a rule are a luxury of such persons who use them for ornamental purposes.

Firearms in the hands of trained persons ensure them safety from dacoits, miscreants, make them strong and disciplined and at the time of emergency formulates a second line of defence.

In U.K. a game license is required for shooting or taking out a gun under the gun license Act. A gun license is required before a shot gun or its cartridge is carried outside the house (no gun license is required for having a gun or its cartridge within a house). Game and gun licences are obtainable at port offices and county councils' offices.

In U.S.A. the term fire arms does not include any rifle if the calibre of such rifle is .22 or small and its barrel is 16" or more in length. But in India the possession of an arm is an exception and is generally granted to a few whose loyalty to the bureaucracy is undoubted and they are at the mercy of Police Officers who have the powers to recommend for the grant of firearms. Law breakers and dacoits are having unlimited supply of weapons, either locally-manufactured, illicitly imported, stolen from government armouries or depots but the law-abiding citizens have not got weapons for defending their person and property. This state of affairs should no longer be allowed and every citizen of India of 16 years and over should be

granted a licence for firearms when applied for, without putting any barrier against him.

I further suggest that the passing of shooting test should be a part of curriculum in all educational institutes where the age limit is 16 years or over. In U.K. the granting of licenses for possessing a firearm is as a rule free from all executive obstacles and bureaucratic officiousness. In India too the firearms Act deserves to be remodelled as its counter-part in England. But it is a dream to us and God knows when it will materialise.

A licence for .22 bore rifle is only limited to the trainees in rifle clubs, or rifle associations, while this right has been denied to those who have to practise target shooting privately at home. I feel that the law should be liberalised to facilitate those persons. The licensing authority should not be appellate authority and the appellate authority should be Commissioner of the Division. Regarding, Class 17, sub-clause 10, the position is that after the suspension or revocation of a license the arms and the ammunition are to be surrendered to the authority and are to be deposited in the 'Malkhana'; where they deteriorate. I suggest that the licensees after suspension or revocation should get the market price of the arms and ammunition forthwith in order to save their arm from annihilation.

In India Arms Rule 1951 under Schedule I, a privileged class has been established whereby they are exempted in respect of arms and ammunition. This is quite undemocratic and discriminatory. As according to Fundamental Rights laid down in our Constitution all citizens of the Republic of India are equal in the eyes of law, so I suggest that these exemptions should be abolished.

Clause 20 about arrest of persons carrying firearms and ammunition.—This clause provides very wide powers to the government servants employed even in non-administrative position. I suggest that some safeguard may be provided to the citizens of our land from undue harassment. The arms and ammunition when covered with license should not come under the purview of the clause and the non-administrative officials below the rank of II Class government officials should not be empowered to arrest the persons without warrant unless there are certain reasons to believe that the arms and ammunitions are to be used for unlawful and subversive activities.

Clauses 25, 26, 27, 28.—The penalties proposed for the offences are very severe and suitable steps should be taken to see that they are in conformity with the condition prevalent in other free countries.

Clause 35.—In this clause combined responsibility has been imposed on persons who are living jointly in a premises and in other places in joint occupation or under the joint control of several persons. This is highly unjustified. Formation of Joint Cooperative Societies and Joint Agriculture Farms is being envisaged in the near future. I do not find any reason why every person is held responsible for the misdeeds of others in a joint society or a cooperative farm. The burden of proof lies only the culprits to prove their innocence.

It is regrettably noted that no liberal policy has been adopted in the Bill to issue licenses to the women in our country. As a rule when women apply for firearms a liberal policy may be adopted to issue a license on concessional fee. The women should be trained in the use of firearms. A lot of trouble or lawlessness prevailing in the society will be removed when women are trained and encouraged to face many anti-social elements in the society. We rightly anticipated that there will be less cases of robbery and rape in the society under those circumstances.

I suggest the license should be replaced by certificate.

The village Defence societies which are lying defunct in the rural areas of the country should be remodelled and rejuvenated. They should be given firearms by the Government and a reasonable quantity of ammunition may be put at their disposal in order to face the day to day unsocial activities of the dacoits and the miscreants. The members of the Defence Society should be adequately trained and their morale should be enhanced. It is desirable if any member of the society dies in discharge of his duty proper provision should be made for the maintenance of his dependents and his services should be properly recognised.

On either sides i.e., East and West Pakistan border and those areas which are infested with dacoits, condition for granting licenses should be slackened to such an extent as to provide arms licences to each and everybody if he or she so desires. As a matter of national interest a subsidy and loan for the purchase of fire-arms should be granted to the inhabitants of the area, so that they can with self-confidence, face the invaders. Special provisions should be made to train them to handle fire-arms. I do not share the views of those who think that the relaxation of law of Arms would lead to the commission of more heinous crimes and a deterioration in the crime situation. I feel that judicious relaxation in granting licences will deter the law breaking element of the society. Instances have shown that the dacoits and the robbers avoid making their depredation in villages where there are several licence holders in the village.

A free grant of license, large-scale manufacture of firearms and ammunition and the cheap supply of the same will ease the situation to a great extent. Further net-work of rifle clubs with proper training facilities will, apart from imparting a spirit of self-reliance and self-help and fearlessness, go a long-way in setting a second line of defence and an effective check for law-breakers.

I strongly suggest that expansion of marksmanship training under government supervision be made forthwith. It could eventually convert all able-bodied citizens into a national military asset.

It is said that it is the business of police to protect the people of the country and their properties, individually and collectively. But when the police officers are themselves being looted, how a common man can be protected.

NEW DELHI;
The 7th August, 1959.

MOHAN SWARUP.

IV

I regret I cannot agree with the views of the majority of the Committee. The Committee has made some changes in the Bill, but I feel that the measure is more restrictive than it should be.

The Arms Act of 1878 was enacted by the British Government to disarm the people of India for their own safety and security. Now we are a sovereign and independent nation, and therefore there should be as few restrictions as possible for acquiring and possessing arms. I am of the opinion that the reduction of restrictions to a minimum will not have any adverse effect on the law and order situation. For example, in many former Indian States there was no restriction on possessing fire-arms, and it did not have any adverse effect, but on the contrary it helped to maintain law and order. A certain class of people in Coorg are enjoying exemption from the Arms Act. The Sikhs are allowed to carry *kirpans*, and the Gurkhas are allowed to carry *Kukris*. All this did not have any adverse effect in the maintenance of law and order and peace. The only people to suffer by the imposition of more restrictions are the law abiding and peace loving citizens. They remain unarmed and unprotected, while the dacoits, offenders and such other anti-social people somehow get whatever arms they require for their unlawful activities.

I, therefore, feel that the people should be encouraged to possess fire-arms and to learn how to use them. For that purpose all types of air rifles, air guns, and Air pistols should be kept out of the operation of this Act. But unfortunately amendments of this nature were not accepted. I fail to understand how Air rifles, Air guns, and Air

pistols can be used for unlawful activities. Is it thought that air rifles and air guns will be used by dacoits and such other offenders? Air rifles and air guns and air pistols are not lethal weapons. No license is required to possess more deadly arms like swords, spears, and bows and arrows. So I think there is no reason to regulate the possession of air rifles, guns, and pistols.

According to clause 13 (3) (a) (i) licences will be granted to cultivators to possess muzzle loading guns for *bona-fide* crop protection. These guns become useless in monsoon, because the powder and percussion caps which are used to fire these guns become moist, and will not fire. Moreover, when these guns are once fired it takes a long time to reload them. If a cultivator fires a shot at a wild boar, and if the boar attacks, the cultivator will not be able to defend himself, because he will have no time to reload his gun and fire again at the attacking animal. On the other hand, if he has a breech-loading gun, he will be more safe, and will be able to protect his crops better. He should, therefore, be entitled to get a licence for a breech-loading gun if he chooses to have it for the protection of his crops. According to proviso to clause 13(3) (a) (i) authority has been given to the licensing authority to decide whether a cultivator should be given a licence for a breech-loading gun or not—I think this is not proper.

In clause 14(3) it has been provided that when the licensing authority refuses to grant a licence, it shall record in writing the reasons for the refusal, and also furnish the applicant with a statement summarising the reasons. It has also been laid down in the said clause that the licensing authority need not reveal to the applicant the reasons for denying him a licence if it thinks that it will not be in the public interest to do so. It is difficult to imagine any circumstances in which revealing the reasons for rejection will hurt public interest. In clause 18(1) there is a provision for appeal against the licensing authority's decision, and clause 18 (5) provides that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. But if the appellate authority also agrees with the licensing authority that the reasons for refusing the licence cannot be disclosed, the appellant will be denied a reasonable opportunity of getting the licensing authority's decision revoked. I, therefore, feel that the licensing authority should not be given such wide and discretionary powers.

I also feel that the Bill should be confined to firearms only and other arms excluded from its purview.

THAKOR SHRI FATEHSINHJI GHODASAR.

NEW DELHI;

The 8th August, 1959.

V

We regret, we are unable to associate ourselves fully with the report of the majority of our colleagues in the Joint Committee. It is rather strange that a Bill professing itself to contain liberal provisions regarding licensing and seeking to reduce the inconveniences caused to the public in respect of requisition and possession of arms reveals on a careful scrutiny that the overall effect of passing the same as law of the country will be to impose severer and more drastic restrictions than those prevailing under the existing law. In our view the report of the majority has not succeeded in reducing the restrictions and inconveniences caused by the provisions of the Bill.

We believe that the Indian Arms Act of 1878 intended solely to disarm the Indian citizens to suit the convenience of the British Rulers must be replaced by an enactment which maintains the right of every free citizen of India to possess or acquire any kind of arms (whether firearms or not) consistent with the demand of the State to maintain public peace and security.

At the outset we may point out that the short title of the enactment itself must be changed as "Firearms Bill" and consistent with such change the definition of "Arms" contained in clause 2(1) (c) of the Bill should be omitted and consequential drafting changes must be made by substituting the word "firearms" for the words "arms" occurring in the various clauses of the Bill. The above change is suggested to take out of the ambit of the enactment the acquiring and possession of sharp-edged weapons like dagger, words, or even pen-knives.

We find that clause 4 of the Bill in the form in which it is accepted by the report of the majority will have dangerous consequences. Often armed dacoits and violent mobs attack innocent villagers and residents of a locality and if a notification as is contemplated in clause (4) is prevailing in that locality then these unfortunate persons will be without even ordinary weapons of defence such as knives, axe or hatchet. Even conceding that going about armed with knives or daggers or other arms other than firearms are to be prevented in a trouble spot, we are of the view that a person shall not be debarred from acquiring or possessing arms other than firearms in his place of residence with the intention of defending himself and his family from any unprovoked attack that may arise in a trouble spot. We suggest, therefore, that the words "acquisition, possession" along with the words "acquire, have in his possession or" occurring in clause (4) of the Bill should be deleted.

Then with regard to the procedure prescribed for obtaining a licence we feel that the liberalisation sought to be introduced is ren-

dered illusory by conferring arbitrary and unguided discretion on the licensing authority to refuse a license.

We find that in U. K. Firearms law a provision for appeal before the Quarter Session is provided in similar contingencies and we suggest that this can be allowed with advantage by making suitable provision for an appeal before the judiciary (say the District and Sessions Court) from an order refusing to grant a license. The present provision for an appeal before the Executive authority, we believe, cannot serve any useful purpose since more often than not official red-tapism has evolved the foot-rule of confirming the orders of the subordinate officers.

NEW DELHI;
The 8th August, 1959.

N. C. SEKHAR,
K. K. WARIOR,
HIRENDRANATH MUKHERJEE*.

VI

As I do not agree, in certain respects with the views of the majority of members of the Committee, I deem it necessary to express my views of dissent in a separate note.

The Arms Bill has been introduced with a view to liberalise the law about acquisition and possession of arms. But in my opinion, some provisions of this Bill which seek to impose restrictions on possession of sharpe-edged but simple arms like daggers are not in consonance with this avowed policy.

The Act should regulate the acquisition and possession of firearms only. But this Bill provides to regulate the acquisition and possession of not only the firearms but the simple arms as well. Of course, it is true that the restrictions on possession of such ordinary arms are to be imposed only during emergency and when the Central Government thinks it necessary or expedient to do so. But even then it is not necessary to incorporate these provisions in this Bill. Criminal Procedure Code, Police Act and other existing penal laws are quite sufficient and adequate to meet any such emergency. Moreover, as these sections are to be invoked only during emergency, it will be difficult to enforce this law effectively. It will not serve any useful purpose. On the contrary, there is every possibility that this law will be misused to harass innocent and peace-loving citizens.

Air-rifles should have been completely exempted from the provisions of this Bill. Air-rifle is entirely different from other firearms.

*Certificate required under direction 87 of the 'Directions by the Speaker under the Rules of Procedure of Lok Sabha' not furnished.

It is not a dangerous weapon. It is mostly used for target practice. If we desire that the people should be able to defend themselves against the foreign invaders or local robbers, dacoits, hooligans and other anti-social elements, then it is not sufficient to arm them. It is essential to train the civilian populace in marksmanship. Already very few facilities are provided for training and practice in marksmanship. Any restrictions on use and possession of air-rifles will hamper the progress in this respect.

If the people are to be proficient in shooting, the training should be imparted to them at an early age. According to the provisions of this Bill, no person who has not attained the age of sixteen can obtain a licence for possession of an air-rifle. Even for target practice, licences in respect of air-rifles are to be given only to the members of rifle clubs or associations recognised by the Central Government. There are exceptionally few places in India where there are rifle clubs or associations. It means that where there are no clubs, no individual person who has not attained the age of sixteen, can obtain a licence for possession of an air-rifle even for target practice. The result is obvious. A large number of young persons desirous of training themselves in marksmanship will be deprived of such opportunity.

For these reasons, it is submitted that the air-rifles should be exempted from the provisions of this Act. If for any reason it is not acceptable, then at least the provision should be made in this Act itself to allow the young boys who have attained the age of twelve years to possess and use air-rifles for target practice irrespective of whether they are members of any rifle club or not so that they can get proper opportunities to develop themselves into perfect marksmen.

BOMBAY;

B. D. KHOBARAGADE

The 7th August, 1959.

VII

1. Generally I am in agreement with the conclusions of the majority of the members of the Committee and I agree with the report as a whole. However, I find it necessary to make a few observations on some of the sections. The statement of objects and reasons refers to the liberal policy the Government have followed after independence. It is in agreement with "that view of" liberalizing the policy, I am adding this note.

2. It is a well known fact that an ordinary citizen, especially a villager, used to find it very difficult to obtain a licence for even

an ordinary gun without pleasing the police authorities. No doubt the licensing authority is a District Magistrate or some other responsible officer. Even then the licences are not issued without consulting the police authorities. This led to considerable corruption also. I am not inclined to think the conditions have very much improved in this matter, after we have attained independence. I am anxious that an ordinary citizen like a farmer should be able to get the required licence without any difficulty and it should not depend on the favourable disposition of the police officials. I represent an area (Coorg) where under the exemption granted by the rules framed under the old Arms Act Coorg, (Kodawas) and Jumma tenure holders are allowed to own certain kind of fire-arms without a licence (*vide* Schedule 1, Rule 4 of the Indian Arms Rules, 1951). They have enjoyed this privilege ever since the fire-arms were known and nothing untoward has happened there. In fact late Sardar Vallabh Bhai Patel is reported to have remarked that if people were like Coorgis he would grant such exemption to all parts of India. I wish very much the Government could go to the extent of allowing the whole of India some privileges as are enjoyed in Coorg. However, this may not be possible to do so under the present conditions.

3. The following points may be considered and the Bill liberalised at least to that extent.

Section 2(c): By using the word "solely" in this definition, there is scope for contending and interpreting that weapons even designed for domestic purposes but which may be used for other purposes as "weapons". Hence, I suggest that the word "solely" may be omitted.

Section 13: Clause 3(b): The burden is on the applicant for licence to prove that he "has a good reason for obtaining the same". I am of the view that the burden should be shifted on the persons who wish to restrict the rights of an independent citizen at least with regard to the license under sections 4, 5 and 6.

Section 14 (1) (b) 3: By this single clause the entire liberalising policy of the Government is in danger. Though under Section 13 Clause 3 (a) (i) and (ii) the granting of licence should be the rule and not granting should be the exception, the effect of this clause is taken away by the use of the words in sub-clause (3) namely, "to be for any reason unfit for licence for this act." It is so wide that any one can be refused a licence.

Section 18: This section providing an appeal to higher authorities assumes considerable importance in view of the provisions of section 14. No doubt, a departmental appeal is allowed. But I

think, it is completely inadequate. I am of the opinion that an appeal should be provided to the highest judicial authority of the area, a District Judge or a similar Officer. As I have already stated, it is usually the police that control the issue of these licences. In fact, in the course of evidence it was admitted that the issue of licenses did not often depend on the merits of each case, but on the percentage allowed by the authorities. This position has led to considerable corruption also. There is an impression in the country that licences cannot be procured without satisfying the police and other authorities. This position will entirely change if an appeal is allowed to the District Judge. In England, an appeal to the Judicial authority is provided. The only argument put forward against such a provision, here, is that the District Judge may not be able to appreciate the law and order situation of the area. It is too difficult to understand this argument that a judicial officer of the status of a District Judge will not be able to appreciate the situation. On the other hand, it creates the impression that the department is not prepared to trust the judiciary. Further, it gives additional strength to the impression that the Police authorities have the final say in the matter, as it is only a departmental appeal. Not only justice should be done, but should appear to be done. Every citizen who applies for a licence should be satisfied that the justice will be done to him and he need not depend on the favours of the Police authorities. Hence, I am of the view that an appeal either to the District Judge or where there is no such Judge to the Judicial authority who is discharging the functions of a District Judge, should be provided for.

4. I have referred to the position of the Coorgis and Jumma holders of Coorg. The present act is for liberalizing the Arms Act and I would like to point out that at least the *status quo* in Coorg should be maintained under the rules to be framed under section 41 of the Act.

NEW DELHI;
The 8th August, 1959.

K. R. ACHAR

VIII

The present Bill seeks to repeal the Indian Arms Act enacted by the British rulers eighty years ago with a view to disarm the whole nation. Apart from the considerations of safeguarding the Empire, this policy of depriving the whole people of arms was motivated in the main by a sense of deep distrust and an attitude of contempt towards the Indian people. I am sorry to note that even after twelve years of independence, the present Government have not been able

to shake off completely the legacy of their predecessors. The present Bill as reported by the Joint Committee is an improvement on the original Bill no doubt, but traces of this distrust linger still, and restrain the Bill from going as far it should. Hence this note of dissent.

The right to bear and carry arms is an inviolable and sacred right of every free citizen and though this has not been included in the list of fundamental rights enumerated in the Indian Constitution, the right of self-defence accepted and guaranteed by the Indian Penal Code implicitly acknowledges the right to possess arms. Since India is not in a position to run into a race of armaments with big Powers, or their satellites, surrounding our boundaries and having hostile and expansionist designs against us, the only course open for us is to arm our people and make military training compulsory for all adult and able bodied citizens.

I strongly feel that provisions of the present Bill should have been confined to firearms only. As regards arms, other than firearms, every citizen should be normally allowed to possess and carry them and even in cases of emergency, envisaged under Clause 4 of the present Bill, restrictions ought to be placed only on stock-piling or carrying of arms and not on their possession. The Home Secretary of the Punjab in his evidence before the Committee has clearly stated that the fact that Sikhs have a right to possess and carry *kripans* with them under the Constitution has not adversely affected the law and order situation in the State in any way. There is no reason why any discrimination be made between Sikhs and non-Sikhs so far as the possession and carrying of arms, other than firearms, for the purpose of self-defence, is concerned. In cases of emergency, the government can impose reasonable restrictions on the display of such arms and for that Police Acts or provisions of the Indian Penal Code are adequate and no special powers, as provided for under the present Bill, should be required.

Under Clause 2 of the present Bill, the definition of the term "Arms" is very wide. It includes all articles of any description designed or adapted as weapons for offence or defence. 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, have been excluded; but "sharp-edged, and other deadly weapons" should be precisely defined so as not to leave any room for doubt or confusion.

The present Bill seeks to liberalise the licensing provisions, but the liberalisation is very halting, the procedure of securing a licence

still remains irksome and dilatory, and the licence-seeker left to the whims and caprices of the bureaucracy.

Clause 14 empowers the licencing authority to refuse a licence on the ground that "such licence is required by a person whom the licensing authority has reason to believe to be for any reason unfit for a licence". Furthermore, he can refuse even to furnish reasons for such refusal if he thinks that it will not be in "the public interest" to do so. Now if licensing authorities are to refuse licences "for any reason" and are not even to be called upon to disclose these reasons, the avowed object of liberalising the licensing provisions will be nullified. The power conferred by clause 14(b) (3) is likely to be abused or misused to cloak acts of political discrimination, extremely rampant these days in respect of grant of licenses. It is for the Lok Sabha to amend this clause in such a way as to make it obligatory for the licensing authority to furnish a statement recording reasons for the refusal of licenses in all cases without any exception.

In regard to clause 13, the licensing authority should not be given the discretion of refusing to grant a licence of a smooth bore gun, sought for crop protection. A muzzle loading gun cannot be operated upon during the training season. Hence granting of licences for other smooth bore guns for the purpose of crop protection should not depend upon the discretion of the authorities but should be made obligatory. I would like to go a step forward and suggest that farmers should be given licences freely even for breach-loading guns so that it could serve both the purposes namely, protection of the person and protection of his crop.

Clause 18 of the Bill provides for appeals against the order of the licensing authority. But the appellate authority envisaged in the Bill is to be an executive officer. I strongly feel that if new provisions providing for appeals are to be of any real advantage to the people, the appeals should lie to a judicial authority who will bring upon his judicial mind in order to see whether the reasons due to which licence is refused are strictly legal and whether relevant provisions of the law have been applied or not.

Under clause 20 the power of arrest of persons conveying arms etc. under suspicious circumstances has been conferred not only upon "magistrates or police officers" but also any other public servant or any person employed or working upon a railway... It means that a railway porter who knows nothing about the Arms Act may arrest or detain any *bona fide* passenger on mere suspicion. The clause confers very wide powers upon those who are likely to abuse them. It should be suitably amended.

I regret to note that it has not been possible for the Committee to provide for the early disposal of applications for licences. I know cases in which applications are kept pending for years together and no action is taken unless certain pressure, official or otherwise, is put on the licensing authority. To avoid inordinate delays in granting licences, it is necessary that some time limit should be fixed within which an application for licence must be disposed of. The Government have promised to issue instructions to the Executive to see that issuing of licences is expedited. But experience of executive instructions gained so far is not very heartening. Any how if procedure of issuing licences is not simplified and effective steps taken to expedite the matters the whole purpose of liberalisation will be defeated.

NEW DELHI;

ATAL BIHARI VAJPAYEE

The 8th August, 1959.

THE ARMS BILL, 1958

ARRANGEMENT OF CLAUSES

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CLAUSES

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2. Definitions and interpretation.

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4. Licence for acquisition and possession of arms of specified description in certain cases.
5. Licence for manufacture, sale, etc., of arms and ammunition.
6. Licence for the shortening of guns or conversion of imitation firearms into firearms.
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8. Prohibition of sale or transfer of firearms not bearing identification marks.
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39. Previous sanction of the district magistrate necessary in certain cases.
40. Protection of action taken in good faith.
41. Power to exempt.
42. Power to take census of firearms.
43. Power to delegate.
44. Power to make rules.
45. Act not to apply in certain cases.
46. Repeal of Act 11 of 1878.

THE ARMS BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

BILL

to consolidate and amend the law relating to arms and ammunition.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Arms Act, 1959.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

2. (1) In this Act, unless the context otherwise requires,—

10 (a) "acquisition", with its grammatical variations and cognate expressions, includes hiring, borrowing, or accepting as a gift;

(b) "ammunition" means ammunition for any firearm, and includes—

Definitions
and inter-
pretation.

15 (i) rockes, bombs, grenades, shells and other like missiles,

(ii) articles designed for torpedo service and submarine mining,

(iii) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with firearms or not,

(iv) charges for firearms and accessories for such charges,

(v) fuses and friction tubes,

(vi) parts of, and machinery for manufacturing, ammunition, and

(vii) such ingredients of ammunition as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "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;

(d) "district magistrate", in relation to a presidency-town or the city of Hyderabad, means the Commissioner of Police thereof;

(e) "firearms" means 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, and includes—

(i) artillery, hand-grenades, riot-pistols or weapons of any kind designed or adapted for the discharge of any noxious liquid, gas or other such thing,

(ii) accessories for any such firearm designed or adapted to diminish the noise or flash caused by the firing thereof,

(iii) parts of, and machinery for manufacturing, firearms, and

(iv) carriages, platforms and appliances for mounting, transporting and serving artillery;

(f) "licensing authority" means an officer or authority empowered to grant or renew licences under rules made under this Act, and includes the Government;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "prohibited ammunition" means any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or other such thing, and includes rockets, bombs, grenades, shells, articles designed for torpedo service and submarine mining and such other articles as the Central Government may, by notification in the Official Gazette, specify to be prohibited ammunition;

10 (i) "prohibited arms" means—

(i) 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

15 (ii) weapons of any description designed or adapted for the discharge of any noxious liquid, gas or other such thing, and includes artillery, anti-aircraft and anti-tank firearms and such other arms as the Central Government may, by notification in the Official Gazette, specify to be prohibited arms;

20 (j) "public servant" has the same meaning as in section 21 of the Indian Penal Code;

(k) "transfer", with its grammatical variations and cognate expressions, includes letting on hire, lending, giving and parting with possession.

25 (2) For the purposes of this Act, the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing.

CHAPTER II

ACQUISITION, POSSESSION, MANUFACTURE, SALE, IMPORT, EXPORT AND 30 TRANSPORT OF ARMS AND AMMUNITION

3. No person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

35 Provided that a person may, without himself holding a licence, carry any firearm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder

4. 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 in that area arms of such class or description as may be specified in that notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

5. No person shall—

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

(b) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any firearm or any other arms of such class or description as may be prescribed or any ammunition, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession, such arms or ammunition; but the person who has sold or transferred any firearm or ammunition in respect of which a licence is required under section 3 or any arms in respect of which a licence is required under section 4, shall, immediately after the sale or transfer, inform in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer and the name and address of the other person to whom the firearm, ammunition or other arms has or have been sold or transferred.

6. No person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

Explanation.—In this section, the expression “imitation firearm” means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.

7. No person shall—

(a) acquire, have in his possession or carry; or

(b) manufacture, sell, transfer, convert, repair, test or prove; or

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

any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.

8. (1) No person shall obliterate, remove, alter or forge any name, 10 number or other identification mark stamped or otherwise shown on a firearm.

(2) No person shall sell or transfer any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon in a manner 15 approved by the Central Government.

(3) Whenever any person has in his possession any firearm without such name, number or other identification mark or on which such name, number or other identification mark has been obliterated, removed, altered or forged, it shall be presumed unless the contrary is proved, that he has obliterated, removed, altered or forged 20 that name, number or other identification mark:

Provided that in relation to a person who has in his possession at the commencement of this Act any firearm without such name, number or other identification mark stamped or otherwise shown 25 thereon, the provisions of this sub-section shall not take effect until after the expiration of one year from such commencement.

9. (1) Notwithstanding anything in the foregoing provisions of this Act,—

(a) no person,—

30 (i) who has not completed the age of sixteen years, or

(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

35 (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,

shall acquire, have in his possession or carry any firearm or ammunition;

(b) no person shall sell or transfer any firearm or ammunition to, or convert, repair, test or prove any firearm or ammunition for, any other person whom he knows, or has reason to believe— 5

(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 at the time of such sale or transfer, or such conversion, repair, test or proof. 10

(2) Notwithstanding anything in sub-clause (i) of clause (a) of sub-section (1), a person who has attained the prescribed age-limit may use under prescribed conditions such firearms as may be prescribed in the course of his training in the use of such firearms: 15

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

10. (1) No person shall bring into, or take out of, India by sea, land or air any arms or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder: 20

Provided that—

(a) a person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession any arms or ammunition, may without a licence in this behalf bring into, or take out of, India such arms or ammunition in reasonable quantities for his own private use; 25

(b) a person being a *bona fide* tourist belonging to any such country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India arms and ammunition in reasonable quantities for use by him for purposes only of sport and for no other purpose; 30 35

Explanation.—For purposes of clause (b) of this proviso, the word “tourist” means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sight-seeing, or participation in a 40

representative capacity in meetings convened by the Central Government or in international conferences, associations or other bodies.

(2) Notwithstanding anything contained in the proviso to sub-section (1), where the collector of customs or any other officer empowered by the Central Government in this behalf has any doubt as to the applicability of clause (a) or clause (b) of that proviso to any person who claims that such clause is applicable to him, or as to the reasonableness of the quantities of arms or ammunition in the possession of any person referred to in such clause, or as to the use to which such arms or ammunition may be put by such person, may detain the arms or ammunition in the possession of such person until he receives the orders of the Central Government in relation thereto.

(3) Arms and ammunition taken from one part of India to another by sea or air or across any intervening territory not forming part of India, are taken out of, and brought into, India within the meaning of this section.

11. The Central Government may, by notification in the Official Gazette, prohibit the bringing into, or the taking out of, India, arms or ammunition of such classes and descriptions as may be specified in the notification.

12. (1) The Central Government may, by notification in the Official Gazette,—

(a) direct that no person shall transport over India or any part thereof arms or ammunition of such classes and descriptions as may be specified in the notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder; or

(b) prohibit such transport altogether.

(2) Arms or ammunition trans-shipped at a seaport or an airport in India are transported within the meaning of this section.

CHAPTER III

PROVISIONS RELATING TO LICENCES

13. (1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the licensing authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same.

(3) The licensing authority shall grant—

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(a) a licence under section 3 where the licence is required--

(i) by a citizen of India in respect of a 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 to be used for *bona fide* crop protection: * 10

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or 15

(ii) in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence ²⁰ under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

14. (1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant—

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(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,—

(i) where such licence is required by a person whom the ³⁰ licensing authority has reason to believe—

(1) to be prohibited by this 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 35

(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 or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence 5 to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a 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 10 unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

15. (1) A licence under section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted:

15 Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

(2) A licence under any other provision of Chapter II shall, 20 unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(3) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renew- 25 able for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.

16. The fees on payment of which, the conditions subject to which 30 and the form in which a licence shall be granted or renewed shall be such as may be prescribed:

Provided that different fees, different conditions and different forms may be prescribed for different types of licences:

Provided further that a licence may contain in addition to pre- 35 scribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

17. (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time 5 as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence,— 10

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this 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 is of unsound mind, or is for any reason unfit for a licence under this Act; or 15

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided 20 by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with 25 a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a 30 licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence 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 35 such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, 40 apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

18. (1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

CHAPTER IV

10

POWERS AND PROCEDURE

19. (1) 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.

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(2) If the person upon whom a demand is made refuses or fails to produce the licence or to show that he is entitled by virtue of this Act or any other law for the time being in force to carry such arms or ammunition without a licence, the officer concerned may require him to give his name and address and if such officer considers it necessary, seize from that person the arms or ammunition which he is carrying * * * * *

(3) If that person refuses to give his name and address or if the officer concerned suspects that person of giving a false name or address or of intending to abscond, such officer may arrest him without warrant.

20. Where any person is found carrying or conveying any arms or ammunition whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are or is being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any magistrate, any police officer or any other public servant or any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, may arrest him without warrant and seize from him such arms or ammunition.

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21. (1) Any person having in his possession any arms or ammunition the possession whereof has, in consequence of the expiration of the duration of a licence or of the suspension or revocation of a licence or by the issue of a notification under section 4 or by any reason whatever, ceased to be lawful, shall without unnecessary

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delay deposit the same either with the officer in charge of the nearest police station or subject to such conditions as may be prescribed, with a licensed dealer or where such person is a member of the armed forces of the Union, in a unit armoury.

5 *Explanation.*—In this sub-section “unit armoury” includes an armoury in a ship or establishment of the Indian Navy.

(2) Where arms or ammunition have or has been deposited under sub-section (1), the depositor or in the case of his death, his legal representative, shall, at any time before the expiry of such period
10 as may be prescribed, be entitled—

(a) to receive back anything so deposited on his becoming entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, or

(b) to dispose, or authorise the disposal, of anything so
15 deposited by sale or otherwise to any person entitled by virtue of this Act or any other law for the time being in force to have, or not prohibited by this Act or such other law from having, the same in his possession and to receive the proceeds of any such disposal:

20 Provided that nothing in this sub-section shall be deemed to authorise the return or disposal of anything of which confiscation has been directed under section 32.

(3) All things deposited and not received back or disposed of under sub-section (2) within the period therein referred to shall be
25 forfeited to Government by order of the district magistrate:

Provided that in the case of suspension of a licence no such forfeiture shall be ordered in respect of a thing covered by the licence during the period of suspension.

(4) Before making an order under sub-section (3) the district
30 magistrate shall, by notice in writing to be served upon the depositor or in the case of his death, upon his legal representative, in the prescribed manner, require him to show cause within thirty days from the service of the notice why the things specified in the notice should not be forfeited

35 (5) After considering the cause, if any, shown by the depositor or, as the case may be, his legal representative, the district magistrate shall pass such order as he thinks fit.

(6) The Government may at any time return to the depositor or his legal representative things forfeited to it or the proceeds of dis-
40 posal thereof wholly or in part.

22. (1) Whenever any magistrate has reason to believe—

(a) that any person residing within the local limits of his jurisdiction has in his possession any arms or ammunition for any unlawful purpose, or

(b) that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety,

the magistrate may, after having recorded the reasons for his belief, cause a search to be made of the house or premises occupied by such person or in which the magistrate has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any, seized and detain the same in safe custody for such period as he thinks necessary, although that person may be entitled by virtue of this Act or any other law for the time being in force to have the same in his possession.

(2) Every search under this section shall be conducted by or in the presence of a magistrate or by or in the presence of some officer specially empowered in this behalf by the Central Government.

23. Any magistrate, any police officer or any other officer specially empowered in this behalf by the Central Government, may for the purpose of ascertaining whether any contravention of this Act or the rules made thereunder is being or is likely to be committed, stop and search any vessel, vehicle or other means of conveyance and seize any arms or ammunition that may be found therein alongwith such vessel, vehicle or other means of conveyance.

24. The Central Government may at any time order the seizure of any arms or ammunition in the possession of any person, notwithstanding that such person is entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, and may detain the same for such period as it thinks necessary for the public peace and safety.

CHAPTER V

OFFENCES AND PENALTIES

25. (1) Whoever—

(a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(b) acquires, has in his possession or carries * * * * * in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification, in contravention of that section; or

(c) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof any arms or ammunition in contravention of section 5; or

5 (d) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

10 (e) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or

15 (f) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (2) of section 8 or does any act in contravention of sub-section (1) of that section; or

20 (g) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(h) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (b) of sub-section (1) of section 9; or

25 (i) brings into, or takes out of, India any arms or ammunition in contravention of section 10; or

(j) brings into, or takes out of, India, arms or ammunition of any class or description in contravention of section 11; or

(k) transports any arms or ammunition in contravention of section 12; or

30 (l) fails to deposit arms or ammunition as required by sub-section (1) of section 21; or

35 (m) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufac-

tered or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept;

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. 5

(2) Whoever being a person to whom sub-clause (i) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. 10

(3) Whoever having sold or transferred any firearms or ammunition or other arms under the proviso to section 5 fails to inform the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer shall be punishable with imprisonment for a term which may extend to six months, or with fine 15 of an amount which may extend to five hundred rupees, or with both.

(4) Whoever fails to deliver-up a licence when so required by the licensing authority under sub-section (1) of section 17 for the purpose of varying the conditions specified in the licence or fails to surrender a licence to the appropriate authority under sub-section 20 (10) of that section on its suspension or revocation shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(5) Whoever, when required under section 19 to give his name 25 and address, refuses to give such name and address or gives a name or address which subsequently transpires to be false shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to two hundred rupees, or with both. 30

26. Whoever—

(a) does any act in contravention of any of the provisions of sections 3, 4, 5, 6, 7, 10, 11 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, 35 aircraft, vessel, vehicle or any other means of conveyance; or

(b) on any search being made under section 22 conceals or attempts to conceal any arms or ammunition;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both. 40

27. Whoever has in his possession any arms or ammunition with intent to use the same for any unlawful purpose or to enable any other person to use the same for any unlawful purpose shall, whether such unlawful purpose has been carried into effect or not, be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

28. Whoever makes or attempts to make any use whatsoever of a firearm or an imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or any other person shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Explanation.—In this section the expression “imitation firearm” has the same meaning as in section 6.

29. Whoever—

(a) purchases any firearms or any other arms of such class or description as may be prescribed or any ammunition from any other person knowing that such other person is not licensed or authorised under section 5; or

(b) delivers any arms or ammunition into the possession of another person without previously ascertaining that such other person is entitled by virtue of this Act or any other law for the time being in force to have, and is not prohibited by this Act or such other law from having, in his possession the same;

shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

30. Whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

31. Whoever having been convicted of an offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

32. (1) When any person is convicted under this Act of any offence committed by him in respect of any arms or ammunition, it shall be in the discretion of the convicting court further to direct that the whole or any portion of such arms or ammunition, and any vessel, vehicle or other means of conveyance and any receptacle or thing containing, or used to conceal, the arms or ammunition shall be confiscated:

Provided that if the conviction is set aside on appeal or otherwise, the order of confiscation shall become void.

(2) An order of confiscation may also be made by the appellate court or by the High Court when exercising its powers of revision.

33. (1) Whenever an offence under this Act has been committed 5
by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 15

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence. 15

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, 20
such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate, and includes a 25
firm or other association of individuals; and
(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS 30

34. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms or ammunition shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the Central Government.

35. Where any arms or ammunition in respect of which any 35
offence under this Act has been or is being committed are or is found in any premises, vehicle or other place in the joint occupation or under the joint control of several persons, each of such persons in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, 40
vehicle or other place shall, unless the contrary is proved, be liable for that offence in the same manner as if it has been or is being committed by him alone.

36. (1) Every person aware of the commission of any offence under this Act shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information of the same to the officer in charge of the nearest police station or the
5 magistrate having jurisdiction.

(2) Every person employed or working upon any railway, aircraft, vessel, vehicle or other means of conveyance shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information to the officer in charge of the
10 nearest police station regarding any box, package or bale in transit which he may have reason to suspect contains arms or ammunition in respect of which an offence under this Act has been or is being committed.

37. Save as otherwise provided in this Act,—

15 (a) all arrests and searches made under this Act or under any rules made thereunder shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to arrests and searches made under that
5 Code;

20 (b) any person arrested and any arms or ammunition seized under this Act by a person not being a magistrate or a police officer shall be delivered without delay to the officer in charge of the nearest police station and that officer shall—

25 (i) either release that person on his executing a bond with or without sureties to appear before a magistrate and keep the things seized in his custody till the appearance of that person before the magistrate, or

30 (ii) should that person fail to execute the bond and to furnish, if so required, sufficient sureties, produce that person and those things without delay before the magistrate.

38. Every offence under this Act shall be cognizable within the meaning of the Code of Criminal Procedure, 1898.

39. No prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction
35 of the district magistrate.

40. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

41. Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

(a) exempt any person or class of persons, or exclude any description of arms or ammunition, or withdraw any part of India, from the operation of all or any of the provisions of this Act; and 5

(b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons or the description of arms and ammunition or the part of India to the operation of such provisions. 10

42. (1) The Central Government may, by notification in the Official Gazette, direct a census to be taken of all firearms in any area and empower any officer of Government to take such census. 15

(2) On the issue of any such notification all persons having in their possession any firearm in that area shall furnish to the officer concerned such information as he may require in relation thereto and shall produce before him such firearms if he so requires.

43. (1) The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under section 41 or the power under section 44 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by— 25

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to the State Government,

as may be specified in the notification. 30

(2) Any rules made by the Central Government under this Act may confer powers or impose duties or authorise the conferring of powers or imposition of duties upon any State Government or any officer or authority subordinate thereto.

44. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 35

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

5 (a) the appointment, jurisdiction, control and functions of licensing authorities;

(b) the form and particulars of application for the grant or renewal of a licence and where the application is for the renewal of a licence, the time within which it shall be made;

10 (c) the form in which and the conditions subject to which any licence may be granted or refused, renewed, varied, suspended or revoked;

(d) where no period has been specified in this Act, the period for which any licence shall continue to be in force;

15 (e) the fees payable in respect of any application for the grant or renewal of a licence and in respect of any licence granted or renewed and the manner of paying the same;

(f) the manner in which the maker's name, the manufacturer's number or other identification mark of a firearm shall be stamped or otherwise shown thereon;

20 (g) the procedure for the test or proof of any firearms;

(h) the firearms that may be used in the course of training, the age-limits of persons who may use them and the conditions for their use by such persons;

25 (i) the authority to whom appeals may be preferred under section 18, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the refund of such fees;

30 (j) the maintenance of records or accounts of anything done under a licence other than a licence under section 3 or section 4, the form of, and the entries to be made in, such records or accounts and the exhibition of such records or accounts to any police officer or to any officer of Government empowered in this behalf;

35 (k) the entry and inspection by any police officer or by any officer of Government empowered in this behalf of any premises or other place in which arms or ammunition are or is manufactured or in which arms or ammunition are or is kept by a

manufacturer of or dealer in such arms or ammunition and the exhibition of the same to such officer;

(l) the conditions subject to which arms or ammunition may be deposited with a licensed dealer or in a unit armoury as required by sub-section (1) of section 21 and the period on the expiry of which the things so deposited may be forfeited;

(m) any other matter which is to be, or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. Nothing in this Act shall apply to—

(a) arms or ammunition on board any sea-going vessel or any aircraft and forming part of the ordinary armament or equipment of such vessel or aircraft;

(b) the acquisition, possession or carrying, the manufacture, repair, conversion, test or proof, the sale or transfer or the import export or transport of arms or ammunition—

(i) by or under orders of the Central Government, or

(ii) by a public servant in the course of his duty as such public servant, or

(iii) by a member of the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948, or by any officer or enrolled person of the Territorial Army raised and maintained under the Territorial Army Act, 1948, or by any member of any other forces raised and maintained or that may hereafter be raised and maintained under any Central Act, or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify, in the course of his duty as such member, officer or enrolled person;

(c) any weapon of an obsolete pattern or of antiquarian value or in disrepair which is not capable of being used as a firearm either with or without repair;

(d) the acquisition, possession or carrying by a person of minor parts of arms or ammunition which are not intended to be used along with complementary parts acquired or possessed by that or any other person.

46. (1) The Indian Arms Act, 1878, is hereby repealed.

(2) Notwithstanding the repeal of the Indian Arms Act, 1878, and without prejudice to the provisions of sections 6 and 24 of the General Clauses Act, 1897, every licence granted or renewed under the first-mentioned Act and in force immediately before the commencement of this Act shall, unless sooner revoked, continue in force after such commencement for the unexpired portion of the period for which it has been granted or renewed.

APPENDIX I

(Vide para 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

"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:—

1. Shri Upendranath Barman
2. Shri Missula Suryanarayanamurti
3. Rani Manjula Devi
4. Shri Bibhuti Mishra
5. Shri Mohammad Tahir
6. Dr. Gopalrao Khedkar
7. Shri Chhaganlal M. Kedaria
8. Shri M. K. M. Abdul Salam
9. Shri R. S. Arumugam
10. Shri Vidya Charan Shukla
11. Shri K. R. Achar
12. Shri Mathew Maniyangadan
13. Shri Bhakt Darshan
14. Shri Jagan Nath Prasad Pahadia
15. Shri Raghubir Sahai
16. Shri Ansar Harvani
17. Shri Devanapalli Rajiah
18. Shri Bangshi Thakur
19. Shri Radha Charan Sharma
20. Shri Satis Chandra Samanta
21. Shri Ranbir Singh Chaudhuri
22. Shri Hirendra Nath Mukerjee
23. Shri K. K. Warior
24. Shri Mohan Swarup
25. Shri Shambhu Charan Godsora
26. Thakor Shri Fatesinhji Ghodasar
27. Shri Uma Charan Patnaik

28. Shri Atal Bihari Vajpayee

29. Shri Shankarrao Khanderao Dige, and

30. 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 the 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."

APPENDIX II

(Vide para 3 of the Report)

Motion in the Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law relating to arms and ammunition, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri Ahmad Said Khan
2. Shri Har Prasad Saksena
3. Shrimati Maya Devi Chettry
4. Shri B. Parameswaran
5. Shri Narotham Reddy
6. Shri Onkar Nath
7. Thakur Bhanu Pratap Singh
8. Shri Govind Chandra Misra
9. Sardar Raghbir Singh Panjhazari
10. Shri P. N. Rajabhoj
11. Shri N. C. Sekhar
12. Shri Faridul Haq Ansari
13. Shri Anand Chand
14. Shri B. D. Khobaragade
15. Shrimati Violet Alva.

APPENDIX III

(Vide para 7 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and the action taken thereon.

Sl. No.	Nature of Document	From whom received	Action taken
1	Memorandum	The National Rifle Association, India, New Delhi.	Circulated to Members and evidence of the Association taken on the 15th July, 1959.
2	Do.	Shri Bolakaranda M. Cariappa, New Delhi.	Circulated to Members and evidence of the Individual taken on the 18th July, 1959.
3	Do.	Coorg District Congress Committee, Ponnamppe, Coorg.	Circulated to Members.
4	Suggestion	Government of Andhra Pradesh	Do.
5	Memorandum	Shri P. K. Choudhary, Calcutta.	Placed in the Parliament Library and Members informed.
6	Representation	Shri R. Jamshedji, Bombay	Do.
7	Do.	Shri J. K. Prasad, Bombay	Do.
8	Do.	Shri A. S. Barodawalla, Bombay	Do.
9	Memorandum	Socialist Unity Centre of India, Calcutta.	Do.
10	Representation	'C' Ward Rifle Club (Regd. Bombay.	Do.
11	Do.	Dr. S. S. Agarwala, Kailash Tehri, Allahabad.	Do.
12	Do.	Shrimati Dhanbai R. Jamshedji, Bombay.	Do.
13	Do.	Shri F. Galiffe, Pariyapatna Taluk, Mysore.	Do.
14	Suggestion	Shri Salim Ali, Bombay.	Do.
15	Do.	Shri Humayun Abdulali, Bombay	Do.

APPENDIX IV

(Vide para 9 of the Report)

List of witnesses who gave evidence before the Joint Committee.

Sl. No.	Names of the Witnesses	Date on which evidence was taken
1.	Shri M. M. Basu, Secretary, Home Department, Government of West Bengal	14-7-59
2.	Shri M. G. Kaul, Secretary, Home Department, Government of Uttar Pradesh	15-7-59
3.	The National Rifle Association, India, New Delhi.	15-7-59
4.	Shri A. N. Kashyap, Secretary, Home Department, Government of Punjab.	18-7-59
5.	Shri Bolakaranda M. Cariappa, New Delhi.	18-7-59

APPENDIX V

MINUTES OF THE JOINT COMMITTEE ON THE ARMS BILL, 1958

I

First Sitting

The Committee met from 10-30 hours to 11-20 hours on Friday,
the 8th May, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

1. Shri Missula Suryanarayanamurti
2. Rani Manjula Devi
3. Shri Bibhuti Mishra
4. Shri Mohammed Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri Vidya Charan Shukla
9. Shri K. R. Achar
10. Shri Mathew Maniyangadan
11. Shri Bhakt Darshan
12. Shri Jagan Nath Prasad Pahadia
13. Shri Raghubir Sahai
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satis Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Uma Charan Patnaik
22. Shri Atal Bihari Vajpayee

23. Shri Shankarrao Khanderao Dige
24. Shri B. N. Datar.

Rajya Sabha

25. Shri Har Prasad Saksena
26. Shrimati Maya Devi Chettry
27. Shri Onkar Nath
28. Thakur Bhanu Pratap Singh
29. Shri Govind Chandra Mishra
30. Sardar Raghbir Singh Panjhazari
31. Shri N. C. Sekhar
32. Shri Faridul Haq Ansari
33. Shri B. D. Khobaragade.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee held a discussion about their future programme.
3. The Committee decided to hold their further sittings from the 13th July, 1959 onwards.
4. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.
5. It was decided that press communique might be issued advising Associations, public bodies etc. who are desirous of presenting their suggestions of views before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 10th June, 1959.
6. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. ought to be called to give oral evidence before the Committee.

7. The Committee decided that one Officer from each of the eastern and western borders of the country and one officer from the States of Uttar Pradesh or Madhya Pradesh or Rajasthan may be examined by them in regard to issue of arms licences to the public subject to permission being given by the Speaker.

8. The Committee desired that copies of the following documents might be circulated to the members of the Committee:—

- (i) The Indian Arms Act, 1878 as amended upto date.
- (ii) The Indian Arms Rules, 1951.
- (iii) Note on Arms Law in the U.K., U.S.A. and any other foreign country with relevant extracts thereof.
- (iv) Copies of speeches of members of the Central Legislature on various Arms Bills discussed in the House.
- (v) Extracts of opinions received on the Indian Arms (Amendment) Bill by Shri Uma Charan Patnaik, M.P.

9. The Committee desired that for the benefit of the members of the Committee, different types of arms may be exhibited on one of their future sittings in one of the rooms in the Parliament House.

10. The Committee then adjourned to meet again at 10.00 hours on Monday, the 13th July, 1959.

II
Second Sitting

The Committee met from 10-00 hours to 10-45 hours on Monday,
the 13th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Bibhuti Mishra
3. Shri Mohammad Tahir
4. Dr. Gopalrao Khedkar
5. Shri Chhaganlal M. Kedaria
6. Shri M. K. M. Abdul Salam
7. Shri R. S. Arumugam
8. Shri K. R. Achar
9. Shri Bhakt Darshan
10. Shri Jagan Nath Prasad Pahadia
11. Shri Raghbir Sahai
12. Shri Ansar Harvani
13. Shri Devanapalli Rajiah
14. Shri Bangshi Thakur
15. Shri Radha Charan Sharma
16. Shri Satis Chandra Samanta
17. Shri Ranbir Singh Chaudhuri
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakore Shri, Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Atal Bihari Vajpayee
24. Shri Shankarrao Khanderao Dige
25. Shri B. N. Datar.

Rajya Sabha

26. Shri Ahmad Said Khan
27. Shri Har Prasad Saksena
28. Shrimati Maya Devi Chetty
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panj hazari
34. Shri P. N. Rajabhoj
35. Shri N. C. Sekhar
36. Shri Anand Chand
37. Shri B. D. Khobaragade
38. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee had a preliminary discussion on the provisions of the Bill and the nature of questions that might be asked to the witnesses appearing before the Committee on the 14th, 15th and 18th July, 1959.

3. The Committee then adjourned in order to enable the members to see the exhibition of different types of arms arranged in Parliament House for the benefit of the members of the Committee, as decided at their first sitting held on the 8th May, 1959.

4. The next meeting of the Committee would be held at 10-30 hours on Tuesday, the 14th July, 1959.

III

Third Sitting

The Committee met from 10·30 hours to 13·00 hours on Tuesday, the 14th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghbir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vaipayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri B. Parameswaran
31. Shri Narotham Reddy
32. Shri Onkar Nath
33. Thakur Bhanu Pratap Singh
34. Shri Govind Chandra Mishra
35. Sardar Raghbir Singh Panjhzari
36. Shri P. N. Rajabhoj
37. Shri N. C. Sekhar
38. Shri B. D. Khobaragade
39. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESS

Shri M. M. Basu—*Secretary, Home Department, Government of West Bengal.*

2. The Committee heard the evidence tendered by the witness named above.
3. A verbatim record of the evidence tendered was taken down.
4. The Committee then adjourned to meet again at 09·30 hours on Wednesday, the 15th July, 1959.

IV

Fourth Sitting

The Committee met from 9:30 hours to 13:00 hours on Wednesday, the 15th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghbir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri B. Parameswaran
31. Shri Narotham Reddy
32. Shri Onkar Nath
33. Thakur Bhanu Pratap Singh
34. Shri Govind Chandra Mishra
35. Sardar Raghubir Singh Panj hazari
36. Shri P. N. Rajabhoj
37. Shri N. C. Sekhar
38. Shri B. D. Khobaragade
39. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESSES

I. Shri M. G. Kaul, *Secretary, Home Department, Government of Uttar Pradesh.*

II. *The National Rifle Association, India, New Delhi.*

1. Shri K. G. Prabhu
2. Sardar Daya Singh

2. On the request of Shri K. R. Achar, member of the Joint Committee, the Committee agreed to hear the evidence of one Shri Kariappa of Coorg on the 18th July, 1959 regarding certain facilities enjoyed by the Coorg community and the holder of Jumma tenure in Coorg in regard to the possession of arms etc.

3. The Committee then heard the evidence tendered by Shri M. G. Kaul, Secretary, Home Department, Government of Uttar Pradesh. A verbatim record of the evidence tendered was taken down. The witness, however, requested the Committee that the whole of the evidence tendered by him might be treated as confidential so far as persons other than Members of Parliament were concerned. The Committee agreed.

4. The Committee thereafter heard the evidence tendered by the representatives of the National Rifle Association, India, New Delhi. A verbatim record of the evidence tendered was taken down.

5. The Committee then adjourned to meet again at 09.30 hours on Thursday, the 16th July, 1959.

V

Fifth Sitting

The Committee met from 09·30 hours to 12·35 hours on Thursday, the 16th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopal Rao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanpalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri Narotham Reddy
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri N. C. Sekhar
35. Shri B. D. Khobaragade
36. Shrimati Violet Alva

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee discussed the question whether or not the Bill should be confined to fire arms only or if it applies to arms in general whether any amendment in clause 4 is necessary.

Discussion was concluded but decision was held over.

3. The Committee, thereafter, discussed their programme of sittings. It was decided to conclude clause by clause consideration of the Bill by the 22nd July, 1959 and adjourn thereafter.

4. The Committee then adjourned to meet again at 09.30 hours on Saturday, the 18th July, 1959.

VI

Sixth sitting

The Committee met from 09.36 hours to 12.42 hours on Saturday, the 18th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabhā

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Satish Chandra Samanta
17. Shri Hirendra Nath Mukerjee
18. Shri Mohan Swarup
19. Shri Shambhu Charan Godsora
20. Thakor Shri Fatesinhji Ghodasar
21. Shri Uma Charan Patnaik
22. Shri Atal Bihari Vajpayee
23. Shri Shankarrao Khanderao Dige
24. Shri B. N. Datar.

Rajya Sabha

25. Shri Ahmad Said Khan
26. Shri Har Prasad Saksena
27. Shri Narotham Reddy
28. Shri Onkar Nath
29. Thakur Bhanu Pratap Singh
30. Shri Govind Chandra Mishra
31. Shri N. C. Sekhar
32. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESSES

I. Shri A. N. Kashyap—*Secretary, Home Department, Government of Punjab.*

II. Shri Bolakaranda M. Cariappa, New Delhi.

2. The Committee heard the evidence tendered by the witnesses named above.

3. A verbatim record of the evidence tendered was taken down.

4. The Committee then adjourned to meet again at 09·30 hours on Monday, the 20th July, 1959.

VII

Seventh Sitting

The Committee met from 09·36 hours to 12·58 hours on Monday, the 20th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghbir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Satish Chandra Samanta
17. Shri Ranbir Singh Chaudhuri
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakor Shri Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Shankarrao Khanderao Dige
24. Shrimati Violet Alva.

Rajya Sabha

25. Shri Har Prasad Saksena
26. Shrimati Maya Devi Chettry
27. Shri Narotham Reddy
28. Shri Onkar Nath
29. Thakur Bhanu Pratap Singh
30. Shri Govind Chandra Mishra
31. Sardar Raghbir Singh Panjhazari
32. Shri N. C. Sekhar
33. Shri Anand Chand
34. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clause 2.*—(1) The following amendment was accepted:—

In Page 2, line 32,

for "firearms" substitute "artillery".

(2) The Committee also accepted the following amendment subject to drafting changes being made by the draftsmen:—

In page 3, line 7,

after "other things" insert "and includes bombs, grenades, articles designed for torpedo service, sub-marine mining and anti-tank warfare and such other weapons as may be declared by the Central Government, by notification in the Official Gazette, to be prohibited arms;"

The draftsman was also directed to examine whether this amendment should not form a separate part under the heading "prohibited ammunition".

Subject to above, the clause as amended was adopted.

4. *Clause 3.*—(1) The following amendment was accepted:

In page 3, line 26,

omit "for purposes of sport".

(2) The Committee felt that the Government might consider whether a provision could be made in the rules for allowing a licensee to use temporarily, for purposes of sport another licensee's firearms of the type for which he holds a license.

The clause as amended was adopted.

5. *Clause 4.*—(1) The following amendment was accepted:—

In page 3, line 33,

for "of any description" *substitute* "of such description as may be specified in that notification."

(2) The Committee desired that the question of providing in the rules for transport of firearms packed in cases through an area specified by the Central Government under this clause might be examined, by the Government.

The clause as amended was adopted.

6. The Committee then adjourned to meet again at 09.30 hours on Tuesday, the 21st July, 1959.

VIII

Eighth Sitting

The Committee met from 09·35 hours to 13·00 hours on Tuesday, the 21st July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M., Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanpalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakor Shri Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Atal Bihari Vajpayee

24. Shri Shankarrao Khanderao Dige
 25. Shri B. N. Datar (*in the Chair from 11:53 to 11:57 hours*).

Rajya Sabha

26. Shri Har Prasad Saksena
 27. Shrimati Maya Devi Chettry
 28. Shri Narotham Reddy
 29. Thakur Bhanu Pratap Singh
 30. Shri Govind Chandra Mishra
 31. Shri N. C. Sekhar
 32. Shri Anand Chand
 33. Shrimati Violet Alva

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 5.*—The following amendments were accented:—

(a) In page 3,

(i) line 37,

after “transfer” insert “convert”.

(ii) line 39,

after “transfer” insert “conversion”.

(b) In page 4, line 1

for “arms or ammunitions” substitute “firearms or ammunitions or prescribed arms.”

The Draftsman was directed to carry out consequential amendments where necessary.

(2) The Committee felt that the proviso should be confined to sale or transfer of arms or ammunitions in respect of which a licence is required under clause 3 or 4 of the Bill.

The Draftsman was directed to submit a revised draft of the clause for consideration of the Committee.

4. *Clauses 6 & 7.*—These clauses were adopted without any amendments.

5. *Clause 8.*—The following amendment was accepted:—

In page 5, line 9,

for “six month” substitute “one year”.

The clause, as amended, was adopted.

6. *Clause 9.*—The following amendments were accepted:—

(i) In page 5, line 13,

for “eighteen” substitute “sixteen”.

(ii) In page 5,

for lines 32—36, substitute—

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

Provided that different age limits may be prescribed in relation to different firearms.”

The clause, as amended, was adopted.

7. *Clause 10.*—The following amendment was accepted:—

In page 6,

for lines 12—17, substitute—

“(b) a person being a *bona fide* tourist belonging to any country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India arms and ammunition in reasonable quantities for use by him for purposes only of sport and for no other purpose.

Explanation.—For purposes of clause (b) of this proviso, the word “tourist” means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sightseeing, or participation in a representative capacity in meetings convened by the Central Government or in international conferences, association or other bodies.”

The clause, as amended, was adopted.

8. *Clauses 11 and 12.*—These clauses were adopted without any amendment.

9. *Clause 13.*—Sub-clause (1) and (2) were adopted without any amendment.

Sub-clause (3) (a) (i) was held over.

Sub-clause (3) (a) (ii) and (b) were adopted without any amendment.

10. The Committee then adjourned to meet again at 09.30 hours on Wednesday, the 22nd July, 1959.

IX

Ninth Sitting

The Committee met from 09:30 hours to 13:17 hours and again from 14:30 hours to 15:00 hours on Wednesday, the 22nd July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M., Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Har Prasad Saksena
28. Shrimati Maya Devi Chettry
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri P. N. Rajabhoj
35. Shri N. C. Sekhar
36. Shri B. D. Khobaragade.

DRAFTSMAN

Shri S. P. Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. Committee resumed clause by clause consideration of the Bill.
3. *Clause 14.*—The following amendment was accepted:—
In page 8, line 5,
after "peace" insert "or for public safety".

The Committee desired that the Government might consider providing in the rules for a licensing authority to hear an applicant for a licence when the licence is to be refused and the case is a border line one.

The clause, as amended, was adopted.

4. *Clauses 15 and 16.*—These clauses were adopted without any amendment.

5. *Clause 17.*—The following amendment was accepted:—
In page 9, line 17,
after "peace" insert "or for public safety".

The clause, as amended, was adopted.

6. *Clause 18.*—The clause was adopted without any amendment.

7. *Clause 19.*—The Committee felt that it ought to be provided in this clause that in case the police Officer was satisfied with the explanation given by the person who was carrying arms or ammunitions he need not seize the arms or ammunitions.

Subject to above the clause was adopted.

8. *Clause 20.*—The clause was adopted without any amendment.

9. *Clause 21.*—The following amendment was accepted:—

In page 12, line 32,
for “fourteen” substitute “*thirty*”.

The clause, as amended, was adopted.

10. *Clauses 22 to 34.*—These clauses were adopted without any amendment.

11. The Committee adjourned at 13·17 hours and reassembled at 14·30 hours.

12. *Clause 35.*—The clause was adopted without any amendment.

The Chairman, however, announced that consideration of this clause could be reopened in case any constructive proposal for its amendment was received from Members.

13. *Clauses 36 to 43.*—These clauses were adopted without any amendment.

14. *Clause 44.*—The clause was adopted without any amendment.

The Committee desired that the Government might issue instructions to the State Governments to take a decision on applications for renewal of licences within a specified period.

15. *Clause 45.*—The following amendment was accepted:—

In page 21, line 29,
after “under any Central Act” insert,
“or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify”.

The clause, as amended, was adopted.

16. *Clause 46.*—The clause was adopted without any amendment.

17. *Clause 5.*—(Vide para 3 of the Minutes of the Eighth Sitting held on the 21st July, 1959).

The following further amendments were accepted:—

In page 4,

- (a) in line 1, for the words “any arms or ammunition”, substitute the words “any firearm or any other arms of such class or description as may be prescribed or any ammunition”;
- (b) in line 5, for the words “any arms or ammunition”, substitute the words “any firearms or ammunition in respect of which a licence is required under section 3 or any arms in respect of which a licence is required under section 4”
- (c) in line 9, 10 and 14, for the words “arms or ammunition” substitute the words “firearm, ammunition or other arms

The clause, as amended, was adopted.

18. *Clause 13.*—(Vide para 9 of the Minutes of the Eighth Sitting held on the 21st July, 1959).

The following amendments were accepted:—

In page 7,

- (a) in line 19, omit the word “or” at the end;
- (b) after line 19, insert the following proviso, namely:—

“Provided that the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for *bonafide* crop protection where having regard to the circumstances of any case it is satisfied that a muzzle loading gun will not be sufficient for such protection, or”.

The clause, as amended, was adopted.

19. *Clause 1.*—The following amendment was accepted:—

In page 1, line 4,

for “1958” substitute “1959”.

The clause, as amended, was adopted.

20. *Enacting formula.*—The following amendment was accepted:—

In page 1, line 1,

for “ninth” substitute “tenth”.

The enacting formula, as amended, was adopted.

21. The Committee decided that the evidence tendered before them may be laid on the Table of the House.

22. The Committee further decided that after the evidence is laid on the Table, the memoranda submitted by the Associations/individual that tendered evidence before the Committee might be placed in the Parliament Library for reference of the Members of Parliament.

23. The Committee decided to ask for extension of time for the presentation of their Report upto the 13th August, 1959 and in the absence of the Chairman Shri Satish Chandra Samanta and alternatively Shri Raghubir Sahai were authorised to move the necessary motion in the House.

24. The Draftsman was authorised to carry out minor changes of drafting nature in the Bill, if necessary.

25. The Committee then adjourned to meet again at 15.00 hours on Tuesday, the 4th August, 1959.

X

Tenth Sitting

The Committee met from 15.02 hours to 16.00 hours on Tuesday, the 4th August, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Rani Manjula Devi
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri R. S. Arumugam
8. Shri Vidya Charan Shukla
9. Shri K. R. Achar
10. Shri Mathew Maniyangadan
11. Shri Bhakt Darshan
12. Shri Jagan Nath Prasad Pahadia
13. Shri Raghubir Sahai
14. Shri Ansar Harvani
15. Shri Devanapalli Rajiah
16. Shri Bangshi Thakur
17. Shri Radha Charan Sharma
18. Shri Satish Chandra Samanta
19. Shri K. K. Warior
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri N. C. Sekhar
35. Shri B. D. Khobaragade
36. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered the Bill as amended and adopted the same with the following amendments:—

(i) In clause 9(1) (b) (ii),—

before “repair” insert “conversion”.

(ii) In clause 35,—

(a) *after “premises” insert “vehicle”*

(b) *after “such persons” insert—*

“in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place”.

(iii) *for clause 44(3), substitute,—*

“(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session

or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

3. The Committee then considered the draft Report and adopted the same with necessary consequential changes arising out of the acceptance of above amendments.

4. The Committee decided that the Report might be presented to the Lok Sabha on the 10th August, 1959 and laid on the Table of the Rajya Sabha on the same day.

5. The Committee authorised the Chairman and in his absence Shri Raghbir Sahai, to present the Report on their behalf and to lay the evidence on the Table of the House after the presentation of the Report.

6. The Committee authorised Shrimati Violet Alva, and in her absence Thakur Bhanu Pratap Singh to lay the Report of the Committee and the evidence on the Table of the Rajya Sabha.

7. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 17.00 hours on Saturday, the 8th August, 1959.

8. The Committee then adjourned.

WITNESSES EXAMINED

Names of the Associations and their Spokesmen	Date	Pages
I. Shri M. M. Basu, Secretary, Home Department, Government of West Bengal.	14-7-59	1-26
II. The National Rifle Association, India, New Delhi.	15-7-59	27-43
<i>Spokesmen :</i>		
1. Shri K. G. Prabhu		
2. Sardar Daya Singh		
III. Shri A. N. Kashyap, Secretary, Home Department, Government of Punjab.	18-7-59	44-64
IV. Shri Bolakaranda M. Cariappa, New Delhi.	18-7-59	64-76

JOINT COMMITTEE ON THE ARMS BILL, 1958.

MINUTES OF EVIDENCE TAKEN BEFORE THE JOINT COMMITTEE ON THE ARMS BILL, 1958

Tuesday, the 14th July, 1959 at 10.30 hours.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

- | | |
|------------------------------------|-------------------------------------|
| 2. Shri Missula Suryanarayanamurti | 15. Shri Bangshi Thakur |
| 3. Shri Bibhuti Mishra | 16. Shri Radha Charan Sharma |
| 4. Shri Mohammad Tahir | 17. Shri Satis Chandra Samanta |
| 5. Dr. Gopalrao Khedkar | 18. Shri Ranbir Singh Chaudhuri |
| 6. Shri Chhaganlal M. Kedaria | 19. Shri Hirendra Nath Mukerjee |
| 7. Shri M. K. M. Abdul Salam | 20. Shri Mohan Swarup |
| 8. Shri R. S. Arumugam | 21. Shri Shambhu Charan Godsora |
| 9. Shri K. R. Achar | 22. Thakor Shri Fatesinhji Ghodasar |
| 10. Shri Bhakt Darshan | 23. Shri Uma Charan Patnaik |
| 11. Shri Jagan Nath Prasad Pahadia | 24. Shri Atal Bihar Vajpayee |
| 12. Shri Raghubir Sahai | 25. Shri Shankarrao Khanderao Dige |
| 13. Shri Ansar Harvani | 26. Shri B. N. Datar. |
| 14. Shri Devanapalli Rajiah | |

Rajya Sabha

- | | |
|--------------------------------|-------------------------------------|
| 27. Shri Ahmad Said Khan | 34. Shri Govind Chandra Mishra |
| 28. Shri Har Prasad Saxena | 35. Sardar Raghubir Singh Panjhzari |
| 29. Shrimati Maya Devi Chettry | 36. Shri P. N. Rajabhoj |
| 30. Shri B. Parameswaran | 37. Shri N. C. Sekhar |
| 31. Shri Narotham Reddy | 38. Shri B. D. Khobaragade |
| 32. Shri Onkar Nath | 39. Shrimati Violet Alva. |
| 33. Thakur Bhanu Pratap Singh | |

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESS EXAMINED

Shri M. M. Basu—*Secretary, Home Department, Government of West Bengal*

(Witness was called in and he took his seat).

Chairman: We have particularly called Shri Basu to give us an idea about the eastern border, especially, of which he is fully conversant. Along with that, if the Members think that on other points he, as Home Secretary, may give us certain facts and opinions which can benefit the Committee, they may ask questions.

I am putting a few questions and then the Members may follow from their side and ask any new points or supplement what I have already asked. Now, we thank you, Mr. Basu, for coming here to give evidence.

The Statement of Objects and Reasons makes it clear that the intention of the Bill is that after the attainment of Independence we want to modify the present law which is 80 years old in such a way that on the one hand this Bill can give security of person and property to the citizens of this country in consonance with the security of the State. To what extent it can be modified in that light to adjust with the rights and duties of the citizens, we are here to deliberate upon. Also, in regard to the necessity of dealing with this problem, we could apprise the Members of the Committee about the border problems.

I may specifically point out one or two facts in this regard. Of course the security of citizens of the States is mainly the duty of the Home Department, that is, the police; but in spite of that, with our limitations in several respects, we fail to give security to each and every citizen, especially in the border, and there are border instances which are frequent. In that light, I shall cite an example. It is a thing which happened recently, on the 10th or 11th April last in Cooch-Bihar district in one of its subdivisions. There was an instance where certain people from East Pakistan crossed the border suddenly in day-light and caused certain ravages, burnt houses and killed one or two men and carried away certain properties including cattle. The border posts that we have got there

were of no help at that time. These are the circumstances. The Committee has to consider whether any sort of protection on the spot could be given to mitigate this evil by arming the border people with firearms. What is the difficulty in that regard? First of all, we would like to know the difficulty as to why the State is not able to give protection in such cases which are frequently happening. Secondly, what is your suggestion so far as this Bill is concerned as regards the liberalising licence for firearms in the border areas?

Shri M. M. Basu: Would you want me to say only about the border areas particularly or just the possible effects of some of the liberalising provisions in the whole of West Bengal and not necessarily on the border areas?

Chairman: You can also speak generally.

Shri M. M. Basu: I shall take the border question later on. We really do not feel happy about some of the so-called liberalising provisions made in the Bill.

Chairman: You may first speak on the provisions of the Bill.

Shri M. M. Basu: I want to refer to certain clauses of the Bill specifically and that will help to illustrate the points. Take the case of clause 3 first. It is said that this clause is going to liberalise the existing provisions in so far as no licences will be required for possession and control of, or for carrying, arms other than firearms. Clause 3 is a liberalisation of the existing provision in the Arms Act. Under the existing provision, a man must not go about armed with arms like spears, swords, daggers, etc. That prohibition is very salutary and I think it should remain. Otherwise there will be nothing to prevent rival groups clashing with each other. We have had such experiences before. It is not necessary to have a licence for purchasing or controlling arms, but it should be necessary to have a licence

for moving about carrying arms. As it is, I do not see the object of clause 3.

Chairman: The Committee is contemplating rather seriously whether this should be an Arms Bill or Firearms Bill. So far as clause 3 is concerned, your point is not only firearms, but all kinds of arms should be restricted.

Shri M. M. Basu: Not for all purposes. It should not be necessary to have a licence for purchasing or owning or controlling any such arms. I can have a dagger in my house, but I cannot move about armed with the dagger without a licence. As I said, my main reason is to avoid clashes between rival groups.

Chairman: You say under the existing Act, no citizen can go out armed with any kind of arms whatsoever. Is it not a fact that in certain areas, there are customs whereby people carry arms while going out? In the northern districts of Bengal, bows and arrows are commonly carried by certain classes of people. Your law can punish them, but it is not being done. The law is observed more in the breach than in compliance.

Shri M. M. Basu: If an ordinary individual goes with a spear, we are prepared to tolerate it, but not when groups do it.

Chairman: Toleration by the executive is one thing, but legislation is quite another thing. For instance, though this provision of law is being violated every hour in the day the State is not taking steps.

Shri M. M. Basu: We do take steps as soon as two groups clash. We also prosecute them for the breach of the Indian Arms Act.

Chairman: That is your view about clause 3. In that case, can you give us an idea of the definition of 'arms' which you have in mind?

Shri M. M. Basu: We can have the same definition as is found here except that it should be added that

no person shall go about armed with arms without a licence.

Sardar R. S. Panjhzari: What about *kirpans*?

Shri M. M. Basu: They are exempted. There is the general exempting clause. I am only speaking of the general provision.

Shri Mahammad Tahir: Suppose a citizen of India wants to have a gun or rifle for purposes of sports. It is only for that purpose that clause 3 has been introduced that for purposes of sport a man can keep a gun or rifle without a licence.

Shri M. M. Basu: I quite agree with the object of clause 3. I am only asking for a provision for arms other than firearms.

Shri Achar: Is it not better to confine this law to firearms and leave arms to be dealt with according to the Criminal Procedure Code?

Shri M. M. Basu: The title of the Bill is Arms Bill and not Firearms Bill. The definition of arms also includes arms other than firearms.

Chairman: As regards the definition of arms and firearms as put down in this Bill, have you got any suggestion to make?

Shri M. M. Basu: It can remain as it is, except that in the definition of 'firearms' in clause 2(1)(e), after artillery, hand-grenades, etc. you can add 'pyrotechnic pistols' to make it a little more illustrative.

Chairman: In the present Act, section 4 says:

" 'Arms' includes firearms, bayonets, swords, daggers, spears, spearheads and bows and arrows, also cannon and parts of arms and machinery for manufacturing arms."

But it is not a wider definition than the one given in the present Bill in clause 2(c).

Do you support it?

Shri M. M. Basu: It is all right. I support it.

Chairman: Don't you think that the words "any deadly weapon" would include many more weapons than put down in the existing Act?

Shri M. M. Basu: I can't think of a more comprehensive definition of arms than is given in the Act.

Shri Datar: You just now said something about pyro-technics. Is it not included in the expression 'fire arms'?

Shri M. M. Basu: Under the definition of firearms, clause 2(e)(i), there are some illustrations of fire-arms: artillery, hand-grenades, riot-pistols, etc. It is only to make it more illustrative.

Shri Datar: We need not necessarily define it. The expression "firearms" includes these things. Will that not be sufficient?

Shri M. M. Basu: That will be sufficient. That is a very minor point.

Shri Datar: Can you explain the expression "pyro-technics"?

Shri M. M. Basu: Pyro-technic pistols can be used as a sort of fire-arms.

Shri Datar: What do they exactly mean?

Shri M. M. Basu: That is some sort of weapon discharging projectiles.

Shrimati Violet Alva: What is the meaning of pyro?

Shri M. M. Basu: For a correct definition, I will have to consult dictionary.

Shri U. C. Patnaik: Mr. Basu has told us that he has no objection to a man possessing weapons, like, swords, daggers and all that in his house, just as it is in England where a man can have any firearms in his house, but cannot go out with firearms. Well, is he aware that in the tribal areas, going out with weapons is not only customary, but it is necessary in view of

the forests being infested with wild animals and as such, does he treat it as an exception?

Shri M. M. Basu: Carrying of *kirpans* by Sikhs and carrying of spears, etc. by tribal people can be allowed. I am only stating the general position that nobody should go out armed with swords, daggers, spears and all that. I can define definite categories like, carrying of *kirpans* by Sikhs and carrying of spears, etc. by tribal people. There is a separate clause for exempting definite categories in the Act.

Chairman: Are these things exempted, carrying of bows, arrows, spears and all that?

Shri C. P. S. Menon (Official of the Ministry): Under the rules they are exempted.

Shri Mohammad Tahir: Carrying of *kirpans* is a constitution right.

Shri Datar: It is not a constitutional right. In fact, this question was raised when the Bill was before Parliament. I had the earlier records of the Constituent Assembly looked up. A Motion had been made by, I believe, Mr. Kamath, that this also should be one of the fundamental rights. That was discussed and ultimately, it was negatived. So, we cannot call it a fundamental right.

Shri Mohammad Tahir: So far as carrying of *kirpans* is concerned, that has been allowed.

Shri C. P. S. Menon (Official of the Ministry): For Sikhs.

Chairman: Carrying of bows, arrows, spears and all that by tribal people, are all these exempted in West Bengal also?

Shri M. M. Basu: I know, they are exempted. Whether in exercise of the rule making power or under the Act, I do not know.

Chairman: Is there any notification exempting carrying of bows, arrows, spears and all that by the tribal people?

Shri M. M. Basu: I cannot tell you off-hand. I have an impression that they are exempted.

Chairman: Mr. Menon says that they are exempted.

Shri C. P. S. Menon (Official of the Ministry): They are exempted not only under the rule making power but also under the power of exemption clause in the Act.

I invite your attention to The Indian Arms Rules, 1951, Schedule II, page 33. Within the areas specified in the first column of the table, the arms, ammunition and military stores described in the second column are excluded from the operation of such prohibitions and directions contained in the Act as are indicated in the third column. As regards item 1, it says, for the whole of India except the State of Punjab and Union Territory of Delhi, all those arms, ammunition and military stores described in the second column are excluded. In column 3, it is stated that the prohibitions can be retained if the State Governments so desire. These powers are delegated to State Governments. Then, item 3 relates to Punjab and Delhi and item 4 relates to Punjab and Himachal Pradesh. Item 5 relates to whole of India except all districts on the external land frontier of India. That item relates to certain kinds of stores, lead and so on. Items 8 and 9 are omitted. We thought it unnecessary in view of the items 1 and 2. They are already excluded.

Shri Datar: Mr. Chairman, may I make a suggestion that Mr. Basu now is here as a witness. Let us put whatever question we have to him in the first instance and afterwards let us have a general discussion. Let us economise his time also.

Shri M. M. Basu: My next point is about the proviso to clause 3. This proviso is in order except that we think that the licence-holder should be made liable for any act or omission

that may be committed by the person carrying the firearms either in the presence of or under the written authority of the licence-holder because he may be a servant or any irresponsible person who cannot be relied upon and he may unconsciously or deliberately lend the use of firearms to some designing criminal or dacoit. The proviso is all right except that the licence-holder should be made responsible if his servant does anything which amounts to an offence under the Act. The licence-holder should be made responsible, or in other words, should be punishable for any act or omission committed by the servant, under this proviso.

Chairman: There is a general rule that the principal is liable for the agent. Apart from this, it is for the Court to judge as to who should be made liable, depending upon the type of offence. Supposing, a servant of a licence-holder goes and shoots a man.

Shri M. M. Basu: Not for all offences like murder, etc.

Shri Ahmad Said Khan: If I understand you right, you say that the responsibility should be of the licence-holder if any offence is committed by his servant with his firearms.

Shri M. M. Basu: Yes, in a way because after all we are allowing a person to carry firearms without any licence since we believe that the licence-holder who is a fairly responsible person would not entrust his firearms to anyone in whom he has no confidence. Therefore, it is fair that the responsibility should be the licence-holder's.

Shri Ahmad Said Khan: Suppose he kills somebody. In that case, do you think that the owner of the firearms should be punished for that?

Shri M. M. Basu: Not for every offence committed by his servant. The servant is not a responsible man, though in some cases he may be. All that I am saying is that there should

be some responsibility thrown upon the licence-holder.

Chairman: Will it not be covered by the general law that the principal is responsible for the agent.

Shri M. M. Basu: That may not hold good.

Shri U. C. Patnaik: May I know if you would like to draw a distinction between servants carrying it in the presence of the licence-holder and servants carrying it in the absence of the licence-holder? Secondly, may I also know whether you would like to bring that servant within the category of retainer making it easier for one to get one or more retainers for the purpose? Is that possible?

Shri M. M. Basu: I am only speaking about the contingency in which the firearms can be misused by the retainer in the absence of the licence-holder. The only solution of the difficulty will be that the servant should have also a retainer's licence.

Shri C. P. S. Menon (Official of the Ministry): This is apart from the retainer's licence. That will not be excluded. That is a different thing.

Shri Mohammad Tahir: If a person carries firearms, without ammunition, what will happen?

Shri M. M. Basu: He may also carry ammunition. The person may carry ammunition or he may carry both.

Shri Mohammad Tahir: If he carries firearms, but not ammunition?

Shri M. M. Basu: There is no harm. But the retainer may carry both firearms and ammunition in the absence of the licence-holder.

Shri Mohammad Tahir: We may exclude ammunition. Then what will be the position?

An hon. Member: Nobody will carry firearms without ammunition.

Shri Mohammad Tahir: Let us suppose that he takes it for renewal or for

repair. For these purposes ammunition is not required.

Shri C. P. S. Menon (Official of the Ministry): In that case, suppose a licence-holder sends his man to buy ammunition. What happens? Or, should he himself go for that?

Shri Achar: What kind of responsibility he wants from him? Suppose the servant commits murder.

Chairman: He has already explained his view that the licence-holder should not be held responsible for all kinds of offences committed by his servant.

Shri Achar: What is the kind of responsibility that he wants?

Shri M. M. Basu: That is a matter for precise drafting. I am saying this only for considerations of public safety. If a servant is asked to carry the firearms by the licence-holder, the former being not a responsible person—not always responsible—is likely to give it to some designing person who may misuse it and return it within three or four hours.

श्री राज गोज : अगल-किसी अइसी को अपने घर में फायर आर्म रखने के इजाजत है तो उसके उमे बाहर ले जाने पर क्यों प्रतिबन्ध लगाया जाता है ?

Chairman: He wants to know this: While you have no objection for a citizen keeping arms in his house, what is your objection if he takes them outside his house.

Shri M. M. Basu: You mean these daggers and spears?

Chairman: Yes.

Shri M. M. Basu: My objection is this: If several persons carry daggers and spears, we have the experience of rival groups coming to clashes frequently. If it is no offence to go about armed with daggers and spears and if people do that non-challantly, then when passions are roused, rival

groups will come to clash and there will be breach of peace.

श्री राजभोज : अगर कोई जंगल में जा रहा हो और उसे रास्ते में डकैत मिल जाए तो वह उसमें अपना रक्षा कैसे कर सकेगा अगर वह अपना फायर आर्म अपने साथ न ले जा सके ?

श्री राधा चरण शर्मा : वह उसके लिए लाइसेंस ले सकता है ।

Shrimati Maya Devi Chetty: May I seek a clarification? What are the firearm and weapons that are going to be prohibited? What are the weapons that the public are going to be prohibited from carrying?

Shrimati Alva: We are on a specific issue now.

Chairman: That point, Mr. Menon, has already mentioned that under the rules certain weapons in certain areas have been exempted.

Shri Khobaragade: Mr. Basu said that the principal should be held responsible for the acts of his agent or servant while carrying the firearms in his absence. Under Criminal law the principal cannot be held responsible for the commissions and omissions of his servant. I want to know whether Mr. Basu has got any idea as to what particular offences are to be specifically mentioned here for which the principal can be held responsible for the acts of his servant.

Shri M. M. Basu: From the public safety point of view, the servant who carries the firearms must at least possess a temporary licence.

Chairman: There should be some provision to that effect so that in the case the agent or the servant does something which is beyond the responsibility that has been entrusted to him the principal also may be held responsible. That is his general observation.

Shri Khobaragade: Under the provisions of Criminal law the principal

cannot be held responsible, if his agent or servant commits dacoity or murder.

Chairman: That is a very wider juridical point. We shall consider that later. He has expressed his general opinion. There should be some provision as a check against misbehaviour by the carrier. He has said that he has got no particular point in view and this is his general impression.

Shri M. M. Basu: It is generally unsafe.

Shri Raghbir Sahai: I wanted to know whether you would permit us to put questions to the witness on every clause on which he expresses his opinion or would you like us to confine our questions after he has finished his views on the whole Bill?

Chairman: That is better, of course. But in the meantime certain points may arise.

Shri Sekhar: I would like to ask Mr. Basu, in view of his suggestion that if people are allowed to carry daggers and spears outside whenever they go there is the likelihood of clash between rival groups. We know that there are many groups of people going about with different types of weapons. I want to know whether there are clashes between rival groups frequently because of this.

Chairman: It has already been expressed by Mr. Menon that though under the law they are prohibited, yet under the exemption power they have been exempted to carry these weapons in the areas where there is confusion.

Shri Sekhar: I am not asking about the exemptions. I want to know whether any such clash was brought to his notice and whether there are frequent clashes between rival groups. What is his experience?

Shri M. M. Basu: Not because of exemption; but it is frequent common.

experience that rival groups clash with each other.

Chairman: You have no knowledge of such clashes which had happened and happen even now.

Shri M. M. Basu: There are clashes.

Shri Sekhar: Is it because of allowing these people to arm themselves with these weapons?

Chairman: It is a question of opinion whether it is because of exemption or without exemption.

Shri Mohammad Tahir: A licensee must be a responsible person. Supposing A.

Chairman: Do you ask some information from him?

Shri Mohammad Tahir: I want his opinion.

Chairman: His opinion does not count; our opinion will count.

Shri Fatehsingh Ghodesar: In Bombay one does not require a licence to go armed with a sword; a sword is a much more bigger weapon than dagger—in Pachmarhi etc. The tribal people go with bows and arrows. They don't possess any licence. Now, are they to possess a licence to go outside with these weapons? Are we liberalising our policy or restricting the possession of arms?

Shri Datar: It is for us to consider and not for the witness.

Chairman: As regards Clause 4, i.e. the emergency clause, supposing we do not have a clause like this in this Bill, what would be the difficulty? What is the present difficulty without this clause?

Shri M. M. Basu: Clause 3, I said, is already guilty of this omission. If Clause 3 is retained and Clause 4 goes, then all the more apprehension is there. If Clause 3 remains, then Clause 4 must remain because it will supply the omission of idea in Clause 3. At least in disturbed areas I will have the power to say that every-

body carrying an arm must possess a licence.

Chairman: What is the present position?

Shri M. M. Basu: There is nothing like Clause 4. No one can go out with arms without a licence.

Shri Datar: Section 15 in the Act.

Shri M. M. Basu: Clause 4 is supposed to act as a check on the liberalisation.

Shri U. C. Patnaik: May I know whether it is not possible to provide for the same thing under section 144 Cr. P.C. or some other thing?

Shri M. M. Basu: Any action can be taken under sec. 144 Cr.P.C., but we are speaking of a safety measures as a special law.

Shri U. C. Patnaik: If in a particular place there is likelihood of a disturbance, cannot the same thing be done under sec. 144?

Shri M. M. Basu: Provided, we know there is a likelihood. For instance, what happened on Independence Day? Two perfectly peaceful processions suddenly came into clash with each other. We did not even dream of promulgating sec. 144 in that area. It is not always handy. It is handy, but not always.

Chairman: In the beginning you have replied to a question that it can be done.

Shri M. M. Basu: It can be done.

Chairman: As regards the particular incident you mentioned, it comes to the same thing: unless the incident happens you can neither enforce clause 4 nor sec. 144.

Shri M. M. Basu: Quite true. At the same time, if there is a continued emergency, not only would I resort to the powers under sec. 144 but also under clause 4 of this Bill, practically disarming everybody so long as the emergency continues.

Chairman: Can't you do it by sec. 144 which is exercising the same power as is proposed to be provided under clause 4?

Shri M. M. Basu: Sec. 144 I would resort to only in a time of emergency in respect of public order. Clause 4 goes further. If there is an emergency I would also ensure that no man carries or keeps under his control any sort of arms without licence.

Chairman: Why can it not be done under sec. 144?

Shri M. M. Basu: I can't ask him to desist from keeping arms. That is a preventive section.

Chairman: Suppose sec. 144 Cr.P.C. is amended a little and power is taken by the State that in cases of such emergency the citizens can be prohibited from using any kind of arms and be asked to surrender all their arms, as is contemplated here to the nearest police station?

Shri M. M. Basu: If that be the object, then it is served as much by clause 4 as the proposed amendment of sec. 144. There is hardly any difference between the two. And it is more appropriate to have that provision in an Arms Bill than in the Criminal Procedure Code.

Chairman: What about the other countries, England, U.S.A. etc.? There is no Arms or Firearms Act there in Canada. It is served by the Penal Code.

Shri M. M. Basu: In England there is a firearms Act.

Chairman: But not an Arms Act.

Shri M. M. Basu: Ours is a special country. That is all that I can say. How often do we hear of gatherings or groups clashing with each other in England? There is the difference in the conditions.

Shri Khobaragade: Sec. 144 provides for disturbances, unlawful

assemblies and so on. So there is no need for clause 4.

Chairman: As regards the conclusion we shall discuss this matter among ourselves. It is only on ascertaining the views of the witness or any particular information from him that we might devote our time.

Shri Khobaragade: I want to know what are the special reasons for this particular provision to be incorporated in this Act.

Chairman: He has given one reason, that without this provision he cannot under section 144 just promulgate an order and ask every person to deposit all kinds of arms, as is provided in this clause.

Shri Datar: Or to take licences.

Shri Khobaragade: If clause 4 is needed to deal with disturbances, sec. 144 is quite sufficient.

Chairman: It is a matter of opinion.

Shri Ahmad Said Khan: Do you think there should be licences for weapons other than firearms or only for firearms?

Shri M. M. Basu: There should be licences for arms other than firearms only when a man goes about armed with those arms.

Shri Ahmad Said Khan: Is it not a fact that even in the British time there was no licence on swords and spears in some States?

Shri M. M. Basu: I have already referred to section 13 of the existing Act which requires licence only for going armed with the arms; it does not require a licence for possession or control. I am only pleading for the retention of the substance of the existing section 13 of the Act.

Shri H. P. Saksena: May I remind Mr. Basu that we have been deliberating on this Bill with the purpose of liberalising the provisions of the Act?

Chairman: That is there in the Statement of Objects and Reasons itself.

Shri M. M. Basu: I started by saying that we have some doubts. Then I come to sub-clause (3) of clause 13 which is the most important liberalising provision in the present Bill. This sub-clause (3) is said to be on the lines of the English Act, sub-section (2) of section 2. That is not quite the position. Under the English Act, the certificate or the licence shall be granted if the licensing authority is satisfied that the applicant "has a good reason for purchasing, acquiring, or having in his possession the firearm or ammunition in respect of which the application is made". This corresponds to item (b) of sub-clause (3), namely, "a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same". This is exactly the provision in sub-section (2) of section 2 of the English Act. But item (a) of sub-clause (3) is something different. There is a positive direction to the licensing authority that he "shall grant" licences in certain specified cases. We may test the wisdom of this provision with reference to an extreme case—shall we say, a vagabond or a beggar. Suppose a vagabond or a beggar wants to keep a firearm to protect himself against personal injury which he fears. He has "good reason", and he claims to have a gun. Under clause 13, suppose the licensing authority has to give him a licence. Yet, a vagabond or beggar has absolutely no place where he can safely store his gun without its falling into the hands of dacoits etc., in which case public safety is in danger. Can we authorise refusal of a licence in such a case under item (ii) of clause 14(1)(b) where it says that the licensing authority shall refuse to grant a licence if it "deems it necessary for the security of the public peace to refuse to grant such licence"? There is one possibility here. In item (ii) the words used are "public peace". We have been advised that "public peace" may be slightly different

from public safety because I am thinking of a vagabond whose gun may fall into the hands of criminals or dacoits, and thereby public safety may be endangered. "Public peace" is usually associated with controlling unlawful assemblies, riots, etc. But if my gun falls into the hands of dacoits and criminals, public safety is endangered. That is why the English section uses both the expressions, namely, the certificate shall be granted if the licensing authority is satisfied that the man "can be permitted to have in his possession the firearms or ammunition without danger to the public safety or to the peace".

Chairman: Without danger to the public?

Shri M. M. Basu: Yes, without danger to the public safety.

Chairman: How can you say that the vagabond will create danger to the public?

Shri M. M. Basu: As I said, he gets a licence; he has no place where he can keep his gun; that gun may fall into the hands of dacoits or criminals, and the latter may use that gun on an individual, for committing theft, or arson and so on. So, I am concluding that thereby public safety is in danger. Clause 14(1)(b) (ii) says that the licensing officer shall not grant the licence if there is any danger to public peace. What we suggest is that on the lines of the English Act, the words 'public safety' should also be included. The English Act uses both the expressions and says:

"Without danger to the public safety or to the peace".

Shri Menon: Could you read it along with the previous sub-clause 3?

Shri M. M. Basu: That is my first point. My second point is this. In such a case as I have mentioned, namely, in the case of a vagabond or a beggar, under clause 14(b) (i) (3) can the licensing officer refuse the licence? The wording here is:

"to be for any reason unfit for a licence under this Act"

In the English Act, in section 2(2) the words are more specific, namely:

"if he is unfitted for any reason to be entrusted with such a firearm."

This is more specific. We have here the words 'unfit for any reason'. The meaning of this is rather vague and diffused, and it is liable to be interpreted away in a different sense which we may not like. Why not be more precise and say 'is unfitted to be entrusted with any firearm'?

Shri Datar: Is not this expression wider? Will not the term 'unfit for any reason' include the vagabond within its scope?

Shri M. M. Basu: Vagabond is also included under the English Act, within the scope of the term 'unfitted to be entrusted with a firearm'.

Shri Datar: But the purpose which you have in view can be served by bringing a vagabond within the scope of the term 'to be for any reason unfit for a licence'?

Shri M. M. Basu: That may be one way of looking at it. There is a slight shade of difference between the term 'unfitted to be entrusted with a firearm', and 'unfit for a licence'.

Shri Menon: On a point of clarification. Our draftsman says that it is not worded properly in the U.K. Act, whereas here it has been drafted better.

Shri M. M. Basu: We are only pointing out what strikes us.

Shri Datar: That was considered.

Shri U. C. Patnaik: Would Shri Basu like to accept the British Act where it lays down certain specific categories like persons of unsound mind, persons convicted of criminal offences, persons who are habitually drunken, and so on. Would Shri Basu like this particular clause to be changed so as to include all those persons?

Shri M. M. Basu: Those provisions are in the U.K. Act, and in the present Bill. Just as the English Act states certain prohibitions, likewise, our Bill also lays down certain prohibitions in clause 9.

Shri Achar: It is a question of drafting.

Shri Menon: That is covered here.

Shri M. M. Basu: I am only speaking about clause 13 here, and not about clause 9.

If really we must vary, we can do so, but if our clause is to be on the lines of section 2 of the English Act, why specify under clause (a) certain categories where it must be obligatory for the licensing authority to grant a licence, and then under clause (b) give the discretion to the licensing officer to grant the licence if he is satisfied that there is a good reason for the same?

Chairman: I think the general reasoning is that it should be within the ordinary right of a citizen to possess a smooth bore gun having a barrel of not less than twenty inches in length, subject to the licence.

Shri M. M. Basu: My point is this. In sub-clause (3) of clause 13, the drafting may be slightly different. Why not say in sub-clause 3(a) also that the licensing authority shall grant a licence under section 3, where he is satisfied that the licence is required for protection or sport and so on. Why not use the word 'satisfied' here also? Otherwise, by contrasting the language of clause (a) and clause (b), one may say that under clause (a), the licensing authority shall grant the licence, even if the fellow is a vagabond. Practically, it comes to that.

Shri Datar: It is a constructive approach, and not merely a negative approach.

Chairman: We want to liberalise the provisions as regards the smooth bore gun.

Shri Menon: These two things where we have made it more obligatory, are exempted under the U.K. Act.

Shri M. M. Basu: Under clause (a) there is no provision about his being satisfied that the gun is really needed for protection or sport and so on.

Shri Menon: Under U.K. Act, point 22 bore rifles are exempted.

Shri M. M. Basu: The licensing authority must be satisfied under clause (a) also, that is to say, the licensing authority must give the licence provided he is satisfied that it is really for sport or protection.

Shri Menon: In (i) and (ii), the reasons have been mentioned already.

Shri M. M. Basu: I must be satisfied that the reason exists. The vagabond will say, 'I need a gun for protection', and the licensing authority may even challenge him and say, 'You are a vagabond, you have nothing to protect, so, why should you be afraid?'

Chairman: The wording here is crop protection.

Shri M. M. Basu: The licensing authority must be satisfied under clause (a) also.

Chairman: It comes to this that you would not like to make any distinction between small arms and big arms.

Shri M. M. Basu: Let there be distinction....

Chairman: The citizen should have the right ordinarily to possess a smooth bore gun.

Shri M. M. Basu:but under clause (a), the licensing authority shall grant the licence for protection, if it is really satisfied that there is a need. That is my point.

Shri Achar: Here, the wording is 'bona fide crop protection'. So, how does the question of vagabond etc. come in?

Shri M. M. Basu: I am speaking of personal protection.

Shri Menon: They are all there.

Shri M. M. Basu: Bona fide crop protection comes in the third category. The first two categories are 'protection' and 'sport'.

If a vagabond comes and tells me that he needs a gun, I must have the discretion to tell him that he is a vagabond and he does not have anything to protect, and he does not need a licence. But according to the present wording, he must be given a licence always. If the licensing officer refuses, he will appeal, and the appellate authority will decide.

Shri Datar: The vagabond will not be allowed to hold it.

Shri M. M. Basu: Therefore, should not clause (a) say that the licensing authority shall grant a licence if he is satisfied that the gun is required for bona fide crop protection or sport or for personal protection. When once the word 'shall' is there, it is very difficult even for the appellate authority to refuse the licence.

Shri Menon: Therefore, it will mean something more, that the licensing authority has to be satisfied that it is necessary for him to have it for crop protection etc.

Chairman: How can the appellate authority say 'No'?

Shri M. M. Basu: The obligatory 'shall' will make it more obligatory.

श्री विभूति मिश्र : मैं यह प्रश्न पूछना चाहता हूँ कि क्या ऐसा हो सकता है कि एक, दो, तीन महीने के अंदर अंदर लाइसेंस मिल जाये और केस का डिसपोजल हो जाये। इस समय तो बहुत वक़्त लग जाता है। इंस्पेक्टर, सुपरिन्टेंडेंट, डिस्ट्रिक्ट मैजिस्ट्रेट और कमिश्नर के पास जाना पड़ता है। मैं यह जानना चाहता हूँ कि क्या वह इस में ऐसी व्यवस्था रखना चाहते हैं ?

Chairman: That is the hon. Member's opinion, and Shri Basu would certainly support it.

Shri Bibhuti Mishra: When we want these guns for crop protection etc., sometimes it takes months and years to get the licence. Does Shri Basu want that any provision should be made in this Act, so that the applications for licence may be disposed of within a certain limited period?

Shri Datar: Let us understand what the witness says, instead of trying to convince him of our views.

Shri Bibhuti Mishra: I am asking him whether he wants any such provision to be made here. I want to know what his experience is, whether he wants to liberalise it or not. What does he feel about the matter?

Chairman: If Shri Basu has anything particular to say, he may say it.

Shri M. M. Basu: There will always be some delay. After an application has been received, the man's antecedents will have to be verified. Suppose some cultivator comes and says that he wants a licence for *bona fide* crop protection, I cannot take him for granted; it may be that he has no cultivable plots, or he has no crops to protect; therefore, I must send it to the thana officers to find out whether he is really in need of a gun. The report will come through different stages and so there will be some delay.

Shri Bibhuti Mishra: Do you want any time-limit in the matter of application for getting licence?

Shri M. M. Basu: Now a district magistrate has to take action under numerous laws. If a time-limit is fixed under each single law saying he must pass final orders within three or six months then it would be very difficult for the magistrate to carry it out.

Shri U. C. Patnaik: May I ask him to look into the two aspects of it—No. 1, 12-bore gun which can be used for protection and sport and No. 2, muzzle loading gun to be used for crop protection? Shri Basu seems to lay more emphasis on the muzzle loading gun which is more or less

antique nowadays rather than on the 12-bore gun.

Shri M. M. Basu: I am speaking on all kinds of guns for protection, sport and crop protection. Whether they are muzzle loading guns or other guns makes no difference. I am speaking of the suitability of the person applying for a licence. Sub-clause (3) makes it obligatory to grant a licence.

Shri B. D. Khobaragade: I want to ask something about sub-clause (2) of clause 9.

Chairman: We have already passed on to the next clause. He is simply expressing his opinion on the provisions of the Bill. After that, you can ask him questions.

Shri M. M. Basu: Then I came to clause 15. Although this is on the lines of the English Act . . .

Chairman: What about clause 14(2)?

Shri M. M. Basu: I would also have attacked that but for the wording: "such person does not own or possess sufficient property". The term "sufficient property" is used. So, there is ample discretion vested on the licensing authority.

Then, coming to clause 15, we think that the existing provision for one year is much better, although the provision in the Bill is on the lines of the English Act, because the duration of three years may mean that the gun may not be inspected for a fairly long interval. If there is a shorter interval between renewals the interval between inspections would also be shorter. If it is missing it will be detected much earlier and police enquiry will be initiated and that will lessen the danger to public safety.

Chairman: Inspection is different from renewal.

Shri M. M. Basu: But inspections are not made except at the time of renewal. That is the normal practice.

Chairman: Then every man will have to go for renewal frequently.

Shri Achar: What are your reasons for your view?

Shri M. M. Basu: Loss of a gun will be detected at a shorter interval. So, police enquiry can be initiated at once and that will lessen the danger to public safety.

Shri U. C. Patnaik: In that case, would you like to reduce it to one month or two months?

Shri M. M. Basu: We have to look to the convenience of the licence-holders also. One year is the golden mean.

Then regarding clause 9(1)(a)(ii), our point is that the criterion should be whether the offence is punishable with imprisonment for not less than six months and not whether the man has actually been sentenced for not less than six months. Because, our experience is that different trying courts impose different sentences for the same type of offence—one court may inflict a sentence of three months and another a sentence of nine months. So this prohibition should be conditional on the nature of the offence which is committed and not on the penalty which is actually inflicted. The nature of the offence will indicate the gravity of the offence. Therefore, it should be a man "who has been sentenced on conviction of any offence involving violence or moral turpitude which is punishable with imprisonment for a term of not less than six months" and not that he has been actually sentenced to a term of six months.

Chairman: It is a bigger question. Recently we have amended the Cr.P.C. and now for many offences which were previously punishable up to three months it is six months' imprisonment.

Shri M. M. Basu: The duration is not material. The point is that we have to take into account the sentence which can be inflicted. That really indicates the nature of the offence and the gravity of the offence, and not the actual sentence.

Shri B. D. Khobaragade: Under clause 9(2) a person who has completed the age of fourteen can get a licence for target practice. I want to know whether it can be reduced to ten.

Shri M. M. Basu: I think it is all right. The revised draft of this Bill was at our instance; that is to say, this particular clause was introduced at our instance. In the original Bill there was no such provision and we insisted on some such provision being retained. This is quite in order.

Shri Raghbir Sahai: I understood from what Shri Basu has said just now that instead of conviction the nature of the offence should be considered for prohibiting or granting licence.

Shri M. M. Basu: Yes, the nature of the offence in terms of the sentence that can be inflicted.

Shri Raghbir Sahai: I want to know whether actually before or after the conviction the nature of the offence is judged.

Shri M. M. Basu: Perhaps I have not made myself clear. Suppose a fellow has been convicted for an offence. Now the criterion would be not what is the length of the sentence that has been inflicted upon him actually but what is actually the offence for which he has been convicted, namely, whether it is an offence punishable for not less than six months, and not whether he has been actually sentenced for six months.

Chairman: In other words, you want the maximum punishment to be taken into account.

Shri M. M. Basu: Yes. The punishment indicates the gravity of the offence, and not the sentence. Similarly, under clause (iii) you may kindly consider providing a period after the expiry of the term of the bond—three years or five years—because usually under the preventive sections of the Criminal Procedure Code, Chapter VIII, the period for

which a man is bound down in one year or two years. That is the actual practice. So, there should be a further provision for a period of three years or five years after the expiry of the term of the bond during which he should not be eligible for a licence.

Chairman: So, you want to be more hard than the criminal court.

Shri M. M. Basu: The Criminal Procedure Code is only for ensuring good behaviour for a certain period by reason of his activity. For granting a licence to a man we insist on a higher standard. In answer to the point just now raised by the hon. Chairman, may I ask why it has been provided in sub-clause (ii) for a further period of five years after the expiry of the sentence? On the same argument, I am pleading that under clause (iii) there should be a further period after the expiry of the bond.

Chairman: Here he has been convicted. In the other case it is practically for the safety of the area, and it is meant as a precautionary step. There, it is the judiciary by whom the guilt is proved.

Shri M. M. Basu: He has expiated the sin, so to say. So, why impose a further period?

Shri Menon: It is only prohibition. That man will come again under clause 14 (b) (i) (3). Only he is not prohibited.

Shri M. M. Basu: We are suggesting that the period of prohibition should be for some period after the expiry of the bond.

Shri Menon: Then he should continue his bond if he is so dangerous!

Shri M. M. Basu: There are certain people whom we cannot convict for any specific offence, but because of their behaviour we bind them for the nature of their activities and for which they are bound down under the Criminal Procedure Code.

Chairman: For any complaint of a serious nature or procedure, he has to promulgate the order under section 110.

Shri M. M. Basu: I come next to clause 17. I am saying all this purely from the public safety point of view. These are not academic observations. Clause 17(3)(c) is more or less at our instance because we came across cases where a man having been convicted by the Chief Presidency Magistrate, Calcutta, completely suppressed the fact of the conviction and took out a licence from the District Magistrate of a district. My point is this. Under clause (c), if the licence was obtained by the suppression of material information or on the basis of wrong information, all that you can do is to suspend or to revoke the licence. Why should a man escape penalty for having made a false statement and obtained a licence on the basis of a false statement? In the English Act also, there is provision to avoid such things.

Shri Menon: There is a penalty section there. There is no penalty section here.

Shri M. M. Basu: The English Act makes it an offence which is punishable. The only penalty which may possibly be attracted is clause 30 which is not applicable here. There is no clause in which a specific penalty has been imposed. Clause 30 of the Bill is a general clause:

“30. Whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.”

You cannot really say that this is a contravention of the provisions of sub-clause (3)(c) of clause 17. This is not really a contravention.

Shri Menon: There is also a general provision where it is laid down—

Shri M. M. Basu: Clause 30 provide for a general penalty where there is a contravention of the provisions of this Act. If I make a false statement, then does it mean a contravention under this clause?

Shri Achar: What is the basis for contravention? Is it an affidavit or a report?

Shri M. M. Basu: If the man says that he has never been convicted under the Arms Act, and if I can prove he has been convicted, then it comes under clause 17(3)(c). That clause is meant for such cases. After I detect it, the utmost that I can do is to revoke or suspend the licence. Now, under the English Act, apart from revocation or suspension, there is also a penalty. Section 2(10) says that if any person makes any statement which he knows to be false for the purpose of procuring whether for himself or any other person a draft licence under this section he shall for such offence be liable to imprisonment for a term not exceeding three months and so on. That is an offence for making a false statement or suppressing material particulars.

Shri Achar: We have the nature of the report understood, but in India, how far such evidence of the departmental officers and their report could be accepted on the basis of which you want to convict the man? So, unless you take his own statement specifically, . . .

Shri M. M. Basu: Assuming there is such an evidence—under clause (c) you cannot even suspend or revoke if there is no evidence—on the basis of which you are suspending or revoking, I am saying that there should be also prosecution on the basis of the same evidence. He would be a dangerous man if he completely suppresses the fact of conviction by some court and takes out a licence from the District Magistrate. He is the sort of man of whom we must be-ware.

Chairman: Is not the making of false statement before a public servant provided for in the Act?

Shri M. M. Basu: Section 193 IPC provides for it, but it should be made a specific offence here also.

Shri Achar: Are we to convict a man or prosecute a man just because the police inspector says, "he has come and told me so and so?"

Shri Datar: He is not a magistrate.

Chairman: If by his own statement it is proved that he has made a false suppression of facts, in that case, it is punishable.

Shri Datar: It is a judicial matter. It is an offence.

Chairman: If we find that it is not sufficient we shall consider.

Shri M. M. Basu: I can prove by collateral evidence that he has supplied wrong or false information to the licensing authority. We have had cases like that, and we felt powerless to proceed against the man.

Then, I come to the proviso under clause 5. I did not touch clause 5 at all thus far. It is only for my clarification rather than to put in a viewpoint. In this proviso, it is said:

" . . . that a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act to have, or is not prohibited by this Act from having, such arms or ammunition . . ." etc.

Let us see the force of these two alternatives. The man who is not prohibited by the Act from having in his possession any arms—naturally you cannot sell to him if he is prohibited—But even if he is entitled by virtue of this Act to have the arms, it does not mean that he actually possesses a licence or is qualified to have a licence. For

example, under clause 13(3), a cultivator can say that "I am entitled to have a licence for firearm for protection of my farm" and at the same time say that "I am not prohibited under clause 9 from possessing a licence". Can I sell to him?

Shri Menon: He is entitled to possess, but not to have a licence.

Shri M. M. Basu: Could that not be made clear as in the English Act, where it is specifically made clear that a man must have a licence before anybody could sell to him. Section 11(1) in the English Act says that no person shall sell or transfer to any other person any firearms or ammunition unless that other person produces a firearm licence authorising him to purchase, or is exempt and so on.

Shri Menon: This is partly taken from our present Act. One is licence and the other is exemption. Both of them are covered.

Shri M. M. Basu: Would it not create any difficulty?

Shri Patnaik: Shri Basu has presented to us his point of view. I think we can consider it. That makes a distinction.

Chairman: If it is not much of a change, we can consider it and see that there is no difficulty.

Shri M. M. Basu: It is said here:

"who is not entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited from having" etc.

What is the purpose of having this word 'or' here? This might create difficulties. It should be 'and' and not 'or'. Not only should he not be prohibited, but he should also be entitled. The same phrasing appears in clause 10 also. But in clause 29 the phrasing is different. There the word used is 'and' and not 'or'. It says:

"(b) delivers any arms or ammunition into the possession of

another person without previously ascertaining that such other person is entitled by virtue of this Act or any other law for the time being in force to have, and is not prohibited by this Act

So, I thought there was some deliberate motive behind this.

Shri B. C. Sharma: It is mentioned somewhere here that the court while convicting a person for an offence under this Act, may state in the judgment that the person shall be prohibited from having a licence. This is meant to cover such cases.

Shri M. M. Basu: Then, sub-clause (7) to clause 17 says:

"A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence."

My submission is, if the court convicts the holder of an offence under any Act and not necessarily under this Act, the court should be equally competent to suspend or revoke the licence. For instance, if a gun is misused and a murder is committed with it, the court should be competent to suspend or revoke the licence.

Chairman: In that case the difficulty will be that the court will have to list that under such and such penal offences, the court is entitled to suspend or revoke the licence. Here we have given the court power to revoke the licence if he commits an offence under this Act. If we make it too wide, to cover any kind of offence, there may be difficulties.

Shri M. M. Basu: It should be done only if the court is satisfied. It has to justify the order for revocation.

Chairman: It may be too wide. Even as it is, the executive authority can revoke the licence at any time.

Shri M. M. Basu: All these points are entirely concerned with the pub-

lic safety point of view. May I make another observation about which my Government feels very strongly? It is about clause 18. This has nothing to do with public safety considerations. The State Government should have powers of revision in cases where no appeal has been filed against the licensing authority and also in cases where an appeal has been filed against the order of the appellate authority, the appellate authority not being the State Government. At present the State Government is exercising that revisional jurisdiction.

Chairman: Generally the appellate authority is the State Government.

Shri M. M. Basu: In our State, the District Magistrate is the licensing authority, the Divisional Commissioner is the appellate authority and the State Government is the revising authority.

Chairman: The Commissioner is also an executive.

Shri M. M. Basu: Under clause 18 (7), the Commissioner's order shall be final. There is no provision for revision.

Shri Achar: Who shall be the final authority—the State Government or the Central Government?

Shri M. M. Basu: The entire Arms Act is intended to be administered through the agency of the State Government. That is why there is a sweeping clause here which says that the Central Government may by notification delegate any of its powers to the State Governments. All powers except the rule-making power under section 44 and the exempting power under section 41 can be delegated to the State Government. I think it is the policy of the Government of India to delegate all the powers accordingly.

Shri Datar: Will you please clarify the position regarding powers of revision?

Shri M. M. Basu: Where an appeal has not been filed, the State Government should have power of revision. Where an appeal has been filed, the State Government should have power of revision against the order of the appellate authority.

Shri B. D. Khobaragade: There is the possibility of misuse of these powers by the State Government.

Shri M. M. Basu: Already power is given to the appellate authority who is an executive officer. The licensing authority is the District Magistrate and the appellate authority is the Divisional Commissioner.

Shri B. D. Khobaragade: My submission is that you should give the power of revision to the judicial authority and not to the executive authority. Otherwise, there is the possibility of misuse of these powers. I would like to quote one instance from the Rajya Sabha Debates. It was quoted by Shri Bhupesh Gupta in the Rajya Sabha. He quoted one example where a person who belonged to the Communist Party was refused licence because of political affiliation. That was a genuine case. If we give all the powers to the executive authority, then there is the danger of misuse.

Shri Har Prasad Saksena: On a point of order, are we looking upon Mr. Basu as an appellate authority to whom we the Members of the Committee are making our complaints and grievances?

Shri B. D. Khobaragade: I only want a clarification. To clarify my point I quoted an instance given by Shri Bhupesh Gupta in the Rajya Sabha. There is one licensing authority and there is one appellate authority. Supposing, we give the revisionary powers to high court . . .

Chairman: On what material can the High Court decide?

Shri Datar: This is a matter for the executive authority, not for the judicial authority.

Chairman: He has asked one question. Mr. Basu, if you want to answer, you can answer.

Shri M. M. Basu: My only answer is, our system of licensing firearms has to be conceived in the context of maintenance of law and order. Therefore, the licensing authority should not be the judicial authority. The licensing authority should be somebody who can view the desirability or suitability of the applicant in the context of the law and order situation. For example, clause 13(3) (b) definitely says, the licensing authority must be satisfied that the person by whom the licence is required has a good reason for obtaining the same. For this purpose, the executive authority is a better agency for deciding the question of granting a licence, than a judicial authority.

Now, I come to the appellate authority. The appellate authority should also be somebody who is connected with the general administration of the region in which the applicant lives because he would be in a position to appreciate the viewpoint of the licensing authority. In our State, the licensing authority usually is the district magistrate and the appellate authority is usually the Divisional Commissioner and I claim that the Divisional Commissioner who is concerned with the subject of general administration will be in a better position to decide upon the suitability of the applicant for a licence.

Shri K. R. Achar: Is it not a fact that in England the appellate authority is the court?

Shri M. M. Basu: I was speaking of law and order situation as obtaining in this country.

Shri Raghbir Sahai: At the present moment the licensing authority is the district magistrate almost everywhere in the country and the

appellate authority is the Divisional Commissioner. Would you agree to making the licensing authority as the S.D.M. who knows his tehsil very well and the appellate authority as the district magistrate? Both of them are executive officers but in view of the larger number of applications that would now be placed before them, after the passing of this Bill, it would be easier for a sub-divisional magistrate to decide those applications and the applicants could go for appeal in the court of district magistrate rather than the Divisional Commissioner who is far away. Would you agree to that?

Shri M. M. Basu: It is just a question of selecting who of the two executive officers should be the licensing authority and the appellate authority, either the sub-divisional magistrate and the district magistrate or the district magistrate and the divisional commissioner.

Shri U. C. Patnaik: Mr. Chairman, as Mr. Basu has told us, licensing of firearms is a matter of law and order and, therefore, he is of opinion that the divisional commissioner should be the proper appellate authority. I think, Mr. Basu will admit that in the provisions of the Cr. P.C. relating to public law and order, the district judge is generally the appellate or the revisionary authority. May we know, Sir, from Mr. Basu, whether it is operating a hardship or handicap to State Governments if the district judge is the appellate authority or the revisionary authority as regards the law and order and matters relating to public tranquillity are concerned?

Shri M. M. Basu: The district judge is the appellate authority where there is conviction of a specific offence.

Shri U. C. Patnaik: He is also the revisionary authority as far as the sections 144 and 145 of the Cr. P.C. are concerned. There is concurrent jurisdiction between the High Court judge and the Sessions judge in some of the public tranquillity matters.

Shri M. M. Basu: My information is, usually they do not interfere.

Shri U. C. Patnaik: Whether they interfere or not, there is the jurisdiction of the Sessions judge over the orders of the sub-divisional magistrate.

Shri M. M. Basu: I have not got a copy of the Cr. P.C. here.

Shri U. C. Patnaik: They can either go to the High Court or to the Sessions Court. Is the State Government feeling any difficulty over that established position?

Shri M. M. Basu: For years and years the divisional commissioner has been the appellate authority.

Chairman: There is one difference. Under section 144 of the Cr. P.C. there is a regular trial, evidence is taken and the district judge has got material to decide the case. Here, the district judge has no evidence.

Shri K. R. Achar: In England, the appellate authority is the court. I would like to know from Mr. Basu whether he knows about it. What is his opinion on that? Take the specific instance of England.

Chairman: Mr. Basu, his question is that in England, the appellate authority is the court and not an executive department.

Shri Datar: Is that the position? Is that correct?

Shri M. M. Basu: I will have to look it up.

Shri B. D. Khobaragade: Supposing in Kerala, the Communist Government issue licences to communists only and not to any other person, what will be the effect.

Chairman: We shall consider that.

Shri Datar: You want that either the State Government or the Central Government should have the authority to modify or reverse the orders passed by the.....

Shri M. M. Basu: Some Government authority.

Shri Datar: In what cases? Where appeal does not lie?

Shri M. M. Basu: In appropriate cases. Even when an appellate order is passed, it should be capable of being revised by a still higher authority. Where an appeal has not been filed, or having been filed a certain order has been passed in either case there should be a further forum of revision.

Shri Datar: According to you, the order of the appellate authority, whatever it is, should be subject to revision by the State Government.

Shri M. M. Basu: Or, as you said, the Central Government. As you know the Central Government's power is delegated to the State Government.

Shri Datar: You want the State Government or the Central Government.

Shri M. M. Basu: The State Government.

The other points I have are very minor points. For example, in sub-clause (b) (iii) of clause 45, the exemption provided has been weighed heavily in favour of certain Central organisations only.

Shri C. P. S. Menon: We are bringing in an amendment to that sub-clause.

Shri M. M. Basu: According to my formula, the words "or State Act" should be inserted after the words "any Central Act" occurring in that sub-clause.

Shri C. P. S. Menon: Our idea was that sub-clause (b) (i) should cover it, because you know Central Government's powers are delegated to the States. But, now we are bringing in an amendment as per the West Bengal Government's view.

Chairman: Now you can speak about the border question. There are two points that I want to say. First of all, all the members are very interested to know about it and therefore I would request you to speak slowly. Secondly, as you were already

told, any statement that you make here cannot be withheld from Parliament, even if it is confidential. In making any statement about border incidents, you will remember this point.

Shri M. M. Basu: There are certain things which I will not be in a position to divulge. In regard to the rest, I can tell you that we propose to do.

We do not think that a solution to this problem will really lie in arming as many people as possible. I do not think that that will meet the necessities of the case. We are at present thinking on different lines altogether, namely, reorganising our entire border security forces in a more effective manner. In this particular case which was mentioned by the honourable Chairman, it so happened that two border outposts happened to be eight miles apart from each other and the incident happened in between. We are now devising a different system.

We are thinking of reorganising our border forces entirely, in collaboration with the military authorities and we believe it is going to be very effective.

Chairman: With the help of the Defence Department?

Shri M. M. Basu: In consultation with them.

Chairman: You do not think that, apart from military installations, your police outposts will be helpful.

Shri M. M. Basu: Our reorganised police outposts will certainly be helpful. I am not thinking of the Army at all. Our idea is also to form village defence parties in the border areas and to give arms to them. Instead of issuing arms to individuals, we are going to organise groups like village defence groups and issue arms to them . . .

Shri U. C. Patnaik: It is quite good to depend upon our armed forces as well as the State Government's border forces.

Shri M. M. Basu: There will be our border security force, but it will be reorganised in an entirely different fashion.

Shri U. C. Patnaik: There are two different things, namely, Government having forces raised at Government cost and armed at Government expense; and desirable type of civilians being encouraged to have arms at their own expenses. Have the Government of West Bengal examined this problem from this angle?

Shri M. M. Basu: We are having recourse to both methods. We are going to organise our own border forces and we are also thinking of equipping with arms village defence parties in the border areas so that they might act in an organised fashion.

Shri U. C. Patnaik: You are coming back to what the honourable Chairman has said. I want to know whether it is possible to allow desirable people to arm themselves. You can draw a distinction between people and desirable people. You are having village defence parties. May I know whether you are taking in those parties people who have got arms and whether you are thinking of giving arms more freely to the people?

Shri M. M. Basu: We are certainly arming the village defence parties which are organised under our auspices. Perhaps I have not been clear. My entire objection to clause 13(3) of this Bill is that the discretion should be with the licensing authority. They should be satisfied that arms are really needed. In regard to these village defence parties, we are satisfied that they should have arms. That is why we are arming them, and we are organising them.

Shri U. C. Patnaik: You have not followed my question. I am not talking of your arming certain village defence parties by giving them rifles or Bren-guns or sten-guns. I am just asking whether you are thinking in terms of villagers in border areas who may be given more freely arm licences or utilised either by conscription or

on a voluntary basis for village defence work in these areas.

Shri M. M. Basu: It should not be made obligatory to give them such and such.....

Shri U. C. Patnaik: I am afraid you are not looking at the question from the view-point of some of us. Although law and order is the duty of the State Government, we are anxious to know whether people voluntarily or by methods of conscription or whatever it may be, are being utilised with their own weapons in which case you must be thinking in terms of giving freer licences to villagers. It is not a question of West Bengal's view in the matter, as to whether you are thinking in terms of military defence or in terms of organising village defence parties or in terms of allowing individuals arming themselves to defend their family and property at the time of border incursions.

Shri M. M. Basu: Whether we are thinking in terms of that is more than what I can say. As regards the desirability of it, I should certainly agree that people in the border areas should be organised into village defence parties and groups and they should be armed.

Shri U. C. Patnaik: To repeat my question again, giving arms by Government is a different thing. I want to know whether you can give them freer use of arms, or organise rifle association or otherwise utilise them for a sort of village defence work, if your village guards are not functioning properly. Or if the Army organisation is not able to come to the rescue of villagers, whether the people should be given themselves the right to think of their own defence—I am just pointing out the psychological thing. It is one thing to depend upon the Army or the Village Defence party. If I am a resident of the village liable to enemy incursion, to have the confidence that if it comes to my family or myself being attacked, I have a double barrel gun or rifle with me which I can use myself—are you

thinking in giving this sort of confidence to the villagers of border areas?

Shri M. M. Basu: Provided the individual is considered suitable by us.

Shri H. N. Mukerjee: I wish Mr. Basu to apply his mind very carefully to this point which we are trying to make. In the border areas there have been some troubles lately and even the Prime Minister has said in Parliament that it is not possible for our Army and for our Police Forces to be present all over the place at the same time. The position, therefore, amounts to this: on account of the emasculation of our people by reason of the Arms Act and civil disabilities in the past, our people in the border areas are almost completely helpless. It may be that it is rather difficult for the Government to formulate a scheme whereby they can mobilise the human material of the border areas here and now. But I do wish to know very seriously whether the West Bengal Government has applied its mind very carefully and formulated anything like a tentative scheme so that the people of the border areas can themselves be organised for purposes of defence in view of the continuing danger of incursions from outside. I mean that since we are discussing this Arms Bill at the present moment we want very much to be sure as to what special provision, if any, ought to be made in regard to our border areas, where Government might be asked by the legislature to go out of its way and to mobilise the man-power and to distribute the arms, of course by taking special precautions in regard to security and all that. But has the West Bengal Government formulated any tentative scheme? If it has not, naturally our border.....

Shri M. M. Basu: It is already our policy to encourage the formation of individual groups of people or village defence party, whether they are called village defence party or resistance party or whatever name it may be. I can also say that wherever there is a person possessing already arms he is made use of by asking him to become

a member of the village defence party. Of course the Government is also going ahead with their own scheme of reorganisation of border security forces. This is another measure, viz. encouraging people to form themselves into village groups and by issuing arms to them.

Shri U. C. Patnaik: May I know what steps we are taking (a) to organise rifle institutions in the border areas and (b) to organise national volunteer force in the border areas. You have already said that you are organising the village defence party and the resistance party. As regards the Indian Arms Bill what steps are being taken to liberalise the grant of licences as far as possible and not to refuse any licence unless you think that somebody's antecedents or inclinations are anti-national? What steps are you taking to give them as many weapons as possible?

Shri M. M. Basu: We have already liberalised the working of the provisions of this Act. As I said earlier, even in the cases where the licensing authority differed on the issue of arms and on the matter being brought to our notice, we are very lenient in such cases and are granting the licence. The first defence would be an entirely reorganised border security force. Secondly in answer to Mr. Mukerjee, we are encouraging the local people in the border to form themselves into resistance parties and equipping them with arms and incidentally enlisting as members of this party all the persons who already hold these arms. Thirdly about the National Volunteers, we have District battalions including those who can be called on three days' notice and sometimes even on 24 hours notice; it all depends upon the nature of emergency.

Shri U. C. Patnaik: Rifle Clubs?

Shri M. M. Basu: We have the West Bengal Rifle Association; it is practically confined to people in Calcutta. In the districts we have been trying to open rifle clubs affiliated to the parent organisation. There is not so far much enthusiasm in evidence.

Shri Raghbir Singh: The West Bengal Government is considering in terms of reorganisation of their border forces and the formation of village defence parties to meet the incursion from Pakistan. But till these two things are completed, have you got any objection to giving licence freely to deserving persons in those areas who could resist the Pakistan attacks?

Shri M. M. Basu: We have no objection to an individual getting the licence, provided he is according to us suitable. That is the overriding safeguard. We must consider whether the man deserves the licence before we sanction it.

Shri Raghbir Sahai: May I know how many licences have been issued with a view to resist these attacks? The reorganisation of border security forces will take time; but the attacks continue. What steps have been taken so far to resist those attacks?

Shri M. M. Basu: Regarding the granting of licences to individuals we have been following a liberal policy.

Shri Raghbir Sahai: Is the number adequate? Could you give us the number of licences issued?

Shri M. M. Basu: It is a question of statistics. I have not got with me now these statistics.

Shri U. C. Patnaik: Mr. Basu has given us a very good point which should open our eyes i.e., the licensing officers in the border areas have been refusing licences to deserving people.

Shri M. M. Basu: To indicate that we have been following a very liberal policy in issuing licences I mentioned that. This is why the State Government want the power of revision in the Bill. There are many cases where licensing may be necessary in border areas. There are officers very liberal or very stiff. When certain cases where the licensing authority because of some insufficient reason or other has unduly rejected the issue of licence are brought to our notice we consider them leniently.

Shri Datar: I want to put before you another side especially in view of your expressed opinion that the Bill is more liberal than what it ought to have been. That is what you have expressed, in some cases. I want to know whether in certain contingencies, the liberal provisions of this Bill will have to be tightened, especially in the border areas, where there is also the possibility of abuse of the licences, and perhaps, of the smuggling out of certain arms. I want your answer on this point.

Shri M. M. Basu: Quite true: I quite agree that especially in the border areas, such a position may arise. I spoke of the different clauses in the context of the possibility of their being abused generally. But if what I apprehend comes to be true, then it is a terrible risk in the border areas, and, therefore, the liberal provisions should be kept a little in check. I do not know how it can be drafted.

Shri Datar: Anyway, you agree with me?

Shri M. M. Basu: There may be disloyal people in the border areas also.

Shri Radha Charan Sharma: What about smuggling into?

Shri Datar: I have asked about smuggling out

Shrimati Violet Alva: There is also the question of smuggling in.

Shri M. M. Basu: Arms are being smuggled into. In the Lok Sabha Secretariat's letter, there is a reference to the fact that there is the danger of arms falling into the hands of foreign agents. I think the reverse tendency is more manifest; more arms are smuggled into the country than are taken out.

Shri Khobaragade: I would invite your attention to sub-clause 3 of clause 14, under which the licensing authority can refuse to disclose reasons for refusal to grant a licence if he considers that it will not be in

public interest. I want to know what those exceptional circumstances are in which it will not be in public interest to furnish a copy of the refusal order?

Unless, one gets a copy of the refusal order, it is not possible for one to prefer an appeal. For preparing the grounds of appeal also, the copy of the order is very essential.

Shri M. M. Basu: I think Shri Menon can answer this better than I can.

Shri Datar: We shall answer that question. There may be secret information against a particular person which it may not be advisable to divulge in the public interest.

Shri Khobaragade: I am asking this question to the witness, and I want to know what his view is. He has been dealing with this particular aspect, and we want to benefit by his experience of so many years.

Shri M. M. Basu: This provision was drafted by the Central Ministry, so, they can say what sort of contingency they had in mind.

Shri Bibhuti Mishra: I want to know how many arms have been smuggled into India and how many have gone from India into Pakistan during the last three years?

Shri M. M. Basu: I could not possibly say off hand.

Ch. Ranbir Singh: In view of the special conditions in the border areas, does Shri Basu feel that there is any necessity to have special provisions for the border areas in this Bill? It may be both ways, as you have suggested or as some other hon. Members feel.

Shri Datar: We have got provisions already there.

Shri M. M. Basu: If the worst comes to the worst, I should have powers to suspend all the provisions in regard to the border areas.

If there is any special type of emergency calling for special action in the border areas, we should be glad to have some special power whereby we can suspend the liberalising provisions of this Act in the border areas.

Shri Radha Charan Sharma: Both restrictive and liberalising.

Shri Datar: He is talking of the reverse.

Ch. Ranbir Singh: Can we have an idea from Shri Basu as to whether there is any necessity to amend the existing Act, and if so, in what way he feels this Act should be amended?

Chairman: That is a bigger question.

Shri M. M. Basu: This is a revised Bill purporting to amend the existing Act. I have only indicated my doubts about certain provisions of the revised Bill which I think are going too far.

Ch. Ranbir Singh: There may be more provisions or there may be less provisions. What do you feel about it? You have already expressed yourself as regards restrictions of some provisions. Do you feel there is any necessity to have some more provisions in any respect, whether by way of liberalisation or by way of restriction?

Shri M. M. Basu: This Bill is all right, provided my suggestions are accepted.

Shri U. C. Patnaik: What is your specific suggestion with regard to the border areas?

Shri M. M. Basu: I have already indicated it, the specific way in which the Bill should be altered. If that is given effect to, public safety in the border areas will not be in danger.

Shri Achar: May I ask one question on a general issue? Probably, it may be so all over India, but I know about my own State, Mysore, at least; there is a considerable abuse of the powers by the police officials; at least,

that is the impression in the minds of the public; the police are doing everything possible to see that the licence is not granted. I do not know what the position in Bengal is, but at least in Mysore, there is that impression. The licences are not forthcoming in time. I want to know whether Shri Basu has got any specific suggestion for remedying this state of affairs?

Shri M. M. Basu: The remedy is that whenever there is any such instance, of abuse, it should be promptly brought to our notice, and we shall look into it. What happens at the thana level, it is not possible for us to rectify, unless it is specifically brought to our notice.

Shri Achar: Are you of the opinion that in Bengal also, such a situation prevails?

Shri M. M. Basu: I would neither affirm it nor deny it.

श्री राज भोज : डकैती एरियाज में पब्लिक को आर्म्स लाइसेंस देने के बारे में क्या राय है ?

सभापति महोदय : उत्तर प्रदेश के होम सेक्रेटरी जब आयेंगे तो उनसे पूछ लीजियेगा ।

Shri U. C. Patnaik: The hon. Minister has put a very pertinent question regarding the smuggling of arms, and undesirable people getting weapons and all that. May I know from Shri Basu what steps are being taken to trace the people who are doing this anti-national work in the border areas, by smuggling arms, giving ammunition to others, and so on? What steps are being taken by the State Government to check those things?

Shri M. M. Basu: Our local police are quite vigilant about the matter, and all suspicious people are interrogated, the places are searched, and so on; and sometimes, we do get results.

Shri U. C. Patnaik: During the British rule, some people had licence for half a dozen weapons or so. Have you tried to review those licences?

Shri M. M. Basu: We have not reviewed them so far. I think the list of people who have been exempted from taking out a licence under the Act, practically remains the same.

Shri U. C. Patnaik: In the case of the section 27 exemptees, are you having a record of the number of weapons etc. with them?

Shri M. M. Basu: We have a full record. Each divisional commissioner is expected to send us an annual report on the administration and working of the Arms Act; there is a special heading in that report in re-

gard to persons exempted from holding these licences, the number of guns that they possess, the type of guns that they possess, revolvers, pistols, even swords and so on, because they are covered by the existing Arms Act.

Shri U. C. Patnaik: Do you keep any record of that?

Shri M. M. Basu: Though it is not mentioned, every arms dealer is expected to keep a record of all the purchases.

Chairman: We are thankful to Shri Basu for giving us enlightening replies and a number of suggestions on various points.

(The witness then withdrew)

The Committee then adjourned.

THE JOINT COMMITTEE ON THE ARMS BILL, 1958.

MINUTES OF EVIDENCE TAKEN BEFORE THE JOINT COMMITTEE ON THE ARMS
BILL, 1959

Tuesday, the 15th July, 1959 at 9.30 hours.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

- | | |
|-------------------------------------|--------------------------------------|
| 2. Shri Missula Suryanarayanamurti | 15. Shri Bangshi Thakur |
| 3. Shri Bibhuti Mishra | 16. Shri Radha Charan Sharma |
| 4. Shri Mohammad Tahir | 17. Shri Satish Chandra Samanta |
| 5. Dr. Gopalrao Khedkar | 18. Shri/Ranbir Singh Chaudhuri |
| 6. Shri Chhaganlal M. Kedaria | 19. Shri Hirendra Nath Mukerjee |
| 7. Shri M. K. M. Abdul Salam | 20. Shri Mohan Swarup |
| 8. Shri R. S. Arumugam | 21. Shri Shambhu Charan Godsora |
| 9. Shri K. R. Achar | 22. Thakore Shri Fatesinhji Ghodasar |
| 10. Shri Bhakt Darshan | 23. Shri Uma Charan Patnaik |
| 11. Shri Jagan Nath Prasad Pahadia, | 24. Shri Atal Bihari Vajpayee |
| 12. Shri Raghubir Sahai | 25. Shri Shankarrao Khanderao Dige |
| 13. Shri Ansar Harvani | 26. Shri B. N. Datar. |
| 14. Shri Devanapalli Rajiah | |

Rajya Sabha

- | | |
|--------------------------------|---------------------------------------|
| 27. Shri Ahmad Said Khan | 34. Shri Govind Chandra Mishra |
| 28. Shri Har Prasad Saksena | 35. Sardar Raghubir Singh Panj hazari |
| 29. Shrimati Maya Devi Chettry | 36. Shri P. N. Rajabhoj |
| 30. Shri B. Parameswarani | 37. Shri N. C. Sekhar |
| 31. Shri Narotham Reddy | 38. Shri B. D. Khobaragada |
| 32. Shri Onkar Nath | 39. Shrimati Violet Alva |
| 33. Thakur Bhanu Pratap Singh | |

DRAFTSMEN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESSES EXAMINED

I. Shri M. G. Kaul, *Secretary, Home Department, Government of Uttar Pradesh.*

II. THE NATIONAL RIFLE ASSOCIATION, INDIA, NEW DELHI.

Spokesmen:

Shri K. G. Prabhu
Sardar Daya Singh

I. Shri M. G. Kaul, *Secretary, Home Department, Government of Uttar Pradesh.*

(Verbatim record of his evidence has not been printed under the direction of the Committee. Copy of the evidence has been placed in the library for reference of Members of Parliament).

II. THE NATIONAL RIFLE ASSOCIATION,
INDIA, NEW DELHI*Spokesmen:*

Shri K. G. Prabhu
Sardar Daya Singh

(Witnesses were called in and they took their seats).

Chairman: You have submitted your memorandum. If you have got now anything by way of amendment of what you have already stated in your memorandum or any additional new point to make before this Committee, you may briefly state.

Shri Prabhu: I would like to elucidate point by point from the memorandum. One or two points may come up newly. As it is, there is no specific point afresh; whatever comes up, if you permit me, I will take them up.

In our memorandum we have firstly requested that the title of the Act should be "The Firearm Bill" and the provisions should confine to the firearms only. I have also mentioned that the intention of the Bill should be to control the possession etc. of the firearms only, as the restriction of the other arms, as defined in the section of the Bill e.g. sharp edged weapons and other deadly weapons can be empowered under the provisions of the Cr. P.C. and the relevant Police Acts. It is felt that the All India Act is not necessary for the purpose of restricting the possession and use of such arms, which is apparently the intention of the proposed bill. In this there is nothing.

Chairman: Just one question. The present definition of the arms is certainly wider than the existing Act. Do you think—if the present definition in the Bill be restricted to those

kinds of arms which are already mentioned in the existing Act—that there should be no control on other arms?

Shri Prabhu: There is no control usually on the arms as defined in this Act. When there is an emergency, the provision has been made that the Government by notification issue such of those arms which will require licence etc. My contention is that it will be very difficult, once if you include daggers, swords etc. under this definition which are in the possession of people, by notification to license them and to make them licensees. I do not know what an elaborate process it will be. Perhaps at the most carrying could be restricted—I mean taking out such arms. Normally also Government does not want in any way to restrict the possession. . . .

Chairman: You said just now if at all necessary, only the taking out arms may be restricted, but not keeping arms.

Shri Prabhu: That appears to be feasible.

Chairman: If it is feasible to them, you will not object. You don't absolutely want to control arms?

Shri Prabhu: In ordinary circumstances I don't want.

Shri Datar: What do you say about emergency? Will it not be necessary to control other arms also?

Shri Prabhu: It is quite necessary; there is no doubt about it.

Shri Menon: Would you like to allow anybody to bring a large number of daggers into the country without licence?

Shri Prabhu: Can that not be controlled by some other Acts?

Shri Menon: It would not be possible to have a number of Acts controlling Arms.

Shri Khobaragade: Could you tell me whether there are any provisions in other Acts which could be utilised to control other deadly weapons?

Shri Prabhu: I am not a lawyer. But Section 144, as it is called, of the District Police Act in our State prohibits the carrying of such deadly weapons. I have not taken a lawyer's opinion. Such provisions could be made use of at State level.

Shri Khobaragade: These provisions are quite sufficient to regulate and control the acquisition and possession of such weapons.

Shri Prabhu: Certainly so.

Chairman: Clause 4 may be retained only so far as custody of the arms is concerned; but you suggest that taking out should be prohibited.

Shri Prabhu: What I mentioned was, suppose every house has a dagger, sword or something of the sort. Practically, many of the weapons are usually possessed by these people. When they know that no licence is required, then many will possess these weapons. If on one fine morning, you issue an order that a licence is required, then the licensing of these things will be a difficult process. What appears to me to be practicable is only the banning or the restricting of the carrying of such weapons, as is done under the Police Act. . . .

Shri Khobaragade: Or the exhibition of such arms openly.

Shri Prabhu: . . . or the carrying of such weapons in case of riots and such other cases under section 144.

Chairman: So, you have expressed yourself on that point. I hope you will restrict your remarks to those points where you have got some

modifications to make and which are important.

Shri Datar: We have gone through the memorandum very carefully.

Shri Menon: Have you compared it with the provision in clause 45(d), where the Act does not apply to certain cases, as, for instance, to minor parts?

Shri Prabhu: That is true.

Shri Menon: That meets your point?

Shri Prabhu: Yes. I now come to clause 2(c) relating to definition of 'arms'. The definition of 'arms' given in the Bill is not specific, or is rather too wide. Since anything can be converted into serviceable weapon, the last clause seems too wide and contradictory to the exemption granted to the domestic and agricultural implements. If possible, the articles of domestic and agricultural use which are proposed to be exempted may be enumerated or illustrated.

Shri Menon: I think you have not read lines 14 to 16 properly. The words are 'but does not include articles designed solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys. . . .'. You have taken this phrase to apply to the former phrase; it applies to 'weapons' and not to articles designed for domestic or agricultural uses.

Shri Datar: There ought to be a comma, after the word 'uses'.

Shri U. C. Patnaik: Under this clause, you would say that a very big lathi with which the skull can be fractured is a deadly weapon?

Shri Prabhu: The wording here is 'incapable of being used otherwise than as toys'. What we want is that domestic and agricultural implements should be exempted.

Shri Datar: The word 'incapable' governs only the word 'weapons'.

Shri Prabhu: Then, it is all right.

Shri Menon: You cannot take weapons' with the previous phrase. It is 'weapons incapable of being used'.

Chairman: What is your view about deadly weapons? Will a big lathi be a deadly weapon?

Shri Prabhu: Anything that produces deadly results could be defined as a deadly weapon, but that does not mean that it is a deadly weapon.

Shri Ahmad Said Khan: Perhaps what he really means is that there should be a definition in the Bill that things like swords, daggers, spears etc. should be regarded as weapons and not other things. I think that is what he means.

Shri Prabhu: I was referring to articles for domestic or agricultural use; it has been explained to me that this para does not affect those things, and that articles for domestic use will be exempted.

In regard to clause 2(e), the words 'or other forms of energy' occurring in the definition are vague, since they appear to cover the weapons like air rifles wherein projectiles are discharged with the force of compressed air or CO₂ gas and are open to interpretation variedly, wherein any potential energy can be converted into kinetic energy; which does not seem to be the intention of Government. The words may, therefore, be deleted or substituted by 'or other forms of like energy'. that means, explosives etc.

The definition of firearms has been put in such a way as to exclude arms, but what happens ultimately is that the two definitions are brought into one, by these words being put in.

Shri Menon: Had you come to the exhibition yesterday, you would have seen a grenade thrower which is just worked by a spring. Would you like that to be defined as a firearm?

Shri Prabhu: It comes under carriers.

Shri Menon: It is not a carrier; it is a discharger. There is a big grenade, which is discharged from a big barrel, which is worked by a spring only. You just release the spring, and it is discharged.

Shri U. C. Patnaik: In that case, even the catapult where potential energy' is converted into kinetic energy will come within this definition. I think other devices where potential energy can be converted into kinetic energy will also come in; even the throwing of a stone will come in.

Shri Prabhu: What is sought to be done by making a separate definition of 'arms' has been taken away by putting in these words 'other forms of energy'. I do not think there is any necessity at all to put in these words. Anything could be brought under this definition as a firearm. For instance, an air rifle can be treated as a firearm.....

Shri Menon: Of course, it is.

Shri U. C. Patnaik: A grenade which moves under the action of a spring is also an explosive, and it works like an explosive.

Shri Menon: A grenade is an explosive, but the grenade discharger is not an explosive.

Shri U. C. Patnaik: The definition is such that a grenade itself is a firearm. It may be discharged by spring action, or it may be a rifle grenade.

Shri Menon: It is not a rifle grenade; it is a discharger. It was shown in the exhibition yesterday. It is of English make, and they use it in the war.

Shri U. C. Patnaik: On the musket?

Shri Menon: Not on the musket. There is just a barrel with the spring; the grenade is put in, and when the

lever is released, the spring action discharges the grenade.

Shri Prabhu: I would again request that air rifle should be exempted.

Shri Menon: Then, again, there is nuclear energy. Where will you bring it in?

Shri Prabhu: These could be controlled by other Acts.

Shri Datar: What is your exact opposition?

Shri Prabhu: My opposition is that whatever Government has tried to give us by putting in a separate definition of 'arms' is sought to be taken away by this phrase.

Shri Datar: How has it been taken away?

Shri Prabhu: For, anything can be defined under this definition as a firearm. There is nothing to prevent Government or anything else from defining anything as a firearm under this clause.

Chairman: What he means is that anything that can be thrown is a projectile. By other forms of energy, probably 'muscle energy' is meant.

Shri Prabhu: I entirely agree with your assurance.

Shri Datar: But you are putting a wide interpretation.

Shri Prabhu: If nuclear and other things could come in, I say that other kinds of 'like' energy may be put in. 'Like' means nuclear or something of the sort.

Shri Datar: We may consider "other kinds of like energy".

Shri Menon: He means explosives.

Shri Prabhu: Yes.

Shri Datar: 'Like' does not mean 'identical'.

Shri Prabhu: "Like" would cover explosives.

Shri Datar: "other forms of like energy". That is what he wants.

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Shri Menon: We shall consult the Law Ministry.

Shri Prabhu: Clause 2(e) (iii) appears to have been made from the definition of "cannon" given in section 4 of the Indian Arms Act.

Shri Menon: (iii) does not refer to it. It must be (iv).

Shri Prabhu: Apparently it is not intended to be applied to light firearms or sporting weapons, etc. It should be made a little clear.

Shri Datar: If any clarification is needed, we can do that.

Shri H. P. Saksena: What clause are you dealing with?

Shri Prabhu: I was dealing with clause 2(e) (iv). It is put in as (iii). It is in the memorandum—a misprint.

Chairman: We are supporting it.

Shri Prabhu: I now come to section 4.

Shri Patnaik: What did you suggest at page 3(i)—"prohibited arms"?

Shri Prabhu: We have not suggested anything. Then in regard to clause 4, I have a few words to say. Clause 4 of the Bill, at page 3, runs as follows:

"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... no person shall acquire have in his possession or carry arms of any description... unless he holds in this behalf a licence...."

Here, a small difficulty comes in. When a person in Uttar Pradesh, in Agra, purchases something and passes through Delhi Station. . .

Shri Menon: This is an emergency section. You are mixing it up.

Shri Patnaik: I think Shri Prabhu has already spoken on this subject and has suggested a definition for 'arms'. In view of this definition this

may be deleted. That is his view. I think.

Shri Menon: I think he is thinking of the proviso to clause 3.

Sardar Daya Singh: In clause 4 you have said that nobody can be in possession of arms or carry arms in a particular area where it has been prohibited due to some emergency. Let us take a sportsman who is travelling from Delhi to Dehra Dun. He has to travel through Meerut which is declared a disturbed area and carrying of firearms is prohibited. But if they are concealed in cases, it should be all right. The arms should not be exhibited as it is done even today. In the Meerut area, if it is considered an emergency and carrying of weapons is prohibited, there should be nothing to stop people from passing through Meerut and carrying arms if those arms are concealed in cases, and not exhibited. Carrying will be all right.

Shri Patnaik: Being in possession of any of these arms—bow and arrow too—is always an offence.

Sardar Daya Singh: Exhibition of firearms in that area should be stopped because of the emergency existing in the town, but if a person is passing through that station and is carrying the arms in a case, it is of no danger. According to the clause, even if a person is carrying the arms in a case, he is punishable. My suggestion is, if a person is carrying any arms concealed in cases, it should not be an offence. Only he should not exhibit them in the disturbed area.

Shri Datar: You mean carrying them in cases and not exhibiting them. Not concealed.

Sardar Daya Singh: Yes.

Shri Datar: In the case of travellers passing through a prohibited area.

Sardar Daya Singh: Suppose by any chance he is withheld or detained at a station or place by the breakage of transport, as long as the arms are in cases, it should be all right.

Shri Datar: It should not apply to any permanent resident of that area. Is that your suggestion?

Sardar Daya Singh: If any party which is passing through or staying at a place which is a disturbed area, and is keeping arms packed in cases, they should not be punished. Exhibition of arms in that area may be considered an infringement.

Shri R. C. Sharma: What about those who have an all-India licence?

Sardar Daya Singh: In a disturbed area, they cannot exhibit. They can carry arms as long as they are in the case. Now, even possession is an infringement.

Chairman: You are referring to firearms. Clause 4 only refers to arms other than firearms.

Sardar Daya Singh: Even for other arms. In going out and shooting, you do not have only firearms, but you have spears, daggers and hunting knives.

Shri Prabhu: Arms are also defined as firearms.

Shri Datar: What he says is, "carry arms of any description". That include firearms.

Sardar Daya Singh: It is not that guns alone are used in *shikari*. Spears, daggers and hunting knives are also used. People go on hog-hunting for which they carry spears and other things.

Shri Datar: He suggests that the words "arms of any description" may include firearms.

Shri Prabhu: The definition of arms include firearms.

Chairman: Under clause 4, while passing through a restricted area, no person shall carry arms unless he holds a licence in this behalf issued in accordance with the provisions of this Act.

Sardar Daya Singh: Is it the arms licence or the special licence which

is referred to here? If it is the arms licence, it is all right. Even if he holds a licence, he should not carry the arms in the restricted area in an exhibited way.

Shri Datar: Suppose a person is in possession of certain arms in Agra and they have to be carried across Delhi which is a restricted area. You say this particular restriction should not apply while you carry the arms across the restricted area. But you are going beyond that and you are also including the persons who are residents of that place. That will defeat the object of the clause.

Sardar Daya Singh: The residents will keep the arms in their houses whereas a person from outside will be carrying the arms with him. My only submission is, a person should be punished only if he exhibits the arms openly while moving in a restricted area. But if a man residing in that area wants to carry spears, hunting knives, daggers, etc. to a place where it is not restricted for the sake of sport, he should be allowed to carry them in a closed manner.

Chairman: We understand what you have in mind.

Shri Prabhu: The provisions of section 5 appear to prohibit the repairs and testing of one's own licensed firearms also, without having a necessary licence therefor. Therefore, a provision seems to be necessary to exclude the obtaining of a licence in such cases. As long as the conversion of a weapon is already made an offence under the Act, the concession of repairing one's own arm is not likely to be misused.

Shri Datar: Can arms be repaired by private persons?

Shri Prabhu: I am referring to minor repairs and not major repairs. Suppose a pin requires sharpening. It is a hobby with many.

Chairman: If it is not properly mended and something untoward happens, who is responsible? The person who keeps arms is also expected to keep it in good repair.

Shri Ahmad Said Khan: Suppose a man has got a licence and he wants to test his gun. Under this clause, he must have a licence for it. I think a person should be allowed to test his arms without a licence.

Shri C. P. S. Menon: I am told these words "test", "prove", etc. are technical terms. These are the words used in the U.K. Firearms Act and we have taken it from there. We cannot claim we are more advanced than U.K. in this respect. The U.K. Act also says:

"No person shall manufacture, sell, transfer, repair, test or prove, or expose or offer for sale or transfer..." etc.

Proving is a technical operation. Only certain approved establishments are allowed to do it. Now we are only allowing the ordnance factories to do it.

Shri Prabhu: I entirely agree, but our request is that in the case of an individual testing his own arms, a small clarification is necessary.

Shri C. P. S. Menon: As I said, we have taken these words from the U.K. Act. They are not used in the ordinary meaning; they are technical terms.

Shri Ahmad Said Khan: In Britain they know what the word actually means. But here our people do not understand what is meant by testing proving, etc.

Shri Prabhu: Yes. That is why we request that some clarification should be there for its interpretation in this country.

Shri Datar: Clarification in the sense that he can make minor repairs, etc?

Shri Prabhu: Yes; something like that.

Sardar Daya Singh: Clause 6 says

"No person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm unless he holds in this behalf a licence...."

Is it the arms licence or special licence which is referred to here?

Shri C. P. S. Menon: It is the same licence mentioned in the previous clause 5.

Sardar Daya Singh: Let us say half an inch of barrel is damaged by falling down from a tree, this can be mended by anybody.

Shri C. P. S. Menon: It should be done only by a person with a manufacturing licence.

Sardar Daya Singh: Anybody should be able to do it. There is nothing technical about it.

Coming to clause 9(1) (a) (ii), it is stated there:

“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”.

Shri Datar: What is it that you want?

Sardar Daya Singh: You should not punish a person twice for the same offence. After conviction, the cancellation of the licence is another punishment for the same offence.

Shri Datar: It is a restriction on getting a licence. How can you consider it as a second punishment.

Sardar Daya Singh: That is my view.

Shri Prabhu: In clause 9(b) (2) for the words “a point 22 bore rifle” occurring in the sub-clause the words “a point 22 small bore rifle of low velocity using rim fire cartridges” should be substituted, as it is not the intention of the Bill to allow the children of ages between 14 and 18 years to handle high velocity rifles.

Shri Datar: Your suggestion can be included in the rules.

Shri Menon: We do not want to clutter up the Act with all that information.

Shri Prabhu: My contention is that it is already given to us.

Shri Menon: Then low velocity will have to be defined.

Shri Prabhu: You need only say “a point 22 small bore rifle of low velocity using rim fire cartridges”.

Shri U. C. Patnaik: The rim fire cartridge, we are told, will go 1,200 ft. per second and the central fire 2,500 ft.

Shri Menon: What is rim fire cartridge? This will have to be defined. It may be less powerful now. Tomorrow there may be another make of .22 rifle which may rim fire cartridge and be more powerful.

Shri Prabhu: For all these days it has been the same. In rim fire the striker hits the rim of the cartridge to explode. In the central fire the striker hits the centre of the cartridge for explosion. That is the clear distinction.

Shri Menon: What I meant was that the world is going on changing. There is so much progress. What is considered low velocity cartridge today, can after some time be made a high velocity cartridge by putting more explosives in it. So, if we define it like that there is the danger of fresh legislation to amend the definition being required frequently. So, it is much better to define it in the rules which we can alter according to the circumstances.

Shri U. C. Patnaik: You can say “point 22 bore as prescribed”.

Shri Prabhu: Instead of that, I would like to retain the present wording.

Secondly, regarding the ages of children, you can make it 10 to 18 instead of 14 to 18. Point 22 small bore rifle is just like an air rifle. Even in regard to recoil shock and everything there is no difference between this and an air rifle. This is charged

with gun powder whereas the other is compressed with air. That is the distinction. Even Shri Sircar has suggested that boys from the age of ten could be allowed for such practice. We have boys who are doing practice from the age 6 or 8. They are doing it exceedingly well. There is no reason why we should restrict it when we are doing it elsewhere.

Shri B. D. Khobaragade: Do you really think that boys of the age of ten can do this practice?

Shri Prabhu: It is done in the club premises under the safety rules and under the supervision of the inspector.

Shri Datar: Is not 14 a reasonable age?

Shri Prabhu: I think we can put it at ten.

Shrimati Alva: How is it in other countries?

Shri Prabhu: There is no ban for children to practise.

Shri B. D. Khobaragade: You have stated that the practice will be under the supervision of the authorities where there are rifle clubs. But in most of the districts we have no rifle clubs. In such places, if any child wants to practise should we allow him to get a licence?

Shri Prabhu: It is not the intention to give licences to them. For giving licences an age is prescribed. This is for boys who are practising in the rifle clubs.

Shri B. D. Khobaragade: Supposing there are no rifle clubs?

Shri Prabhu: He has to wait till he comes of age.

Shri Menon: We have definitely stated "under prescribed conditions" and "in the course of his training".

Shri Prabhu: I want to know what provision you are making for the training of children in towns and villages where there are no rifle clubs.

Shri Menon: It is not confined to rifle clubs. It is done even in schools.

Shri Datar: Don't you think that a boy aged ten would be too young to practise?

Sardar Daya Singh: My son aged nine is a good shot.

Shri Datar: That might be an exception. Then, do you understand the risk involved?

Shri Prabhu: In a city like Ahmedabad I have trained with air rifle boys from the age of eight onwards, about 5,000 to 6,000 of them, during the last 10—12 years, and believe me we have not had a single instance of any accident, because we strictly enforce the safety regulations. We impress on the boys the necessity for the safety regulations in such a way that they will remember them throughout their life. Because, between ten and fourteen is the age when they will easily take to this. My request is to delete the words "air rifle" from this.

Chairman: There are two types.

Shri Datar: He wants to remove "air rifles" completely.

Sardar Daya Singh: We have both the types of air rifles here.

Shri U. C. Patnaik: Let the witness tell us why he does not want any restriction regarding air rifle.

Shri Datar: Do you want that it should be exempted altogether?

Shri Prabhu: My submission is that air rifles are toy guns or toy rifles and they are not in any way dangerous.

Chairman: We are told that the high-velocity ones are dangerous.

Shri Prabhu: I have brought here with me the slugs that are used on both the types. With what air pressure they can hit anybody, I do not know. This air rifle (showing a model) does not require any licence; it requires a licence in Delhi. Sir, if you will not feel offended, I say I am prepared to take a shot from this air

rifle from my colleague Mr. Daya Singh and show you that it will not go beyond a small deep wound. And I will take it out also.

Shri Datar: We will not allow it.

Shri Prabhu: Sir, my life is certainly dearer to me and I would not risk it. But I am so sure about it, I can take it on my hand, on my chest also. If you permit me, Sir—I do not know whether it is parliamentary language or not—I would say it is ridiculous that we should include air rifles. On the one hand in the Arms Act of an independent nation we have given so much, and I do not know with what force these bullets can go and hit anybody.

Shri Datar: If you are going to take the risk, we have no objection.

(At this stage Shri Prabhu demonstrated to the Committee the shot from an air rifle by firing it in the air.)

Shri Prabhu: You see, Sir, this is the force. And these pellets require no licence.

Shri Datar: We put this question to the Home Secretary to the Government of Uttar Pradesh that the Rifle Association wants a complete exemption so far as air rifles are concerned. He said that there are air rifles and air rifles and all cannot be exempted altogether; some are certainly risky, others may be innocuous.

Shri Prabhu: If Government feels that a particular type is risky, its import could be banned or its manufacture could be banned. But the very idea of putting the air rifle under the licensing system mars the whole show and it produces a psychological feeling that this still requires a licence. You can say that such-and-such powerful air rifles will not be imported or allowed to be manufactured. A child will feel "this requires a licence and I cannot handle it as a toy". And after all, what is it made of?

Shri Datar: According to you all air rifles are quite safe?

Shri Prabhu: I am certainly prepared to argue with your experts that an air rifle is not a dangerous weapon. If a point 22 bore rifle could be relegated from the group of powerful weapons to liberalised licensing, air rifle should go unlicensed. If you feel there are one or two types which are dangerous, you may ban their import or manufacture. Under the present Act there is only one type, namely B.S.A. of a double-spring nature which requires licence. But its import could be banned—if that is your intention—and we can watch for five years.

Shri Datar: We shall consider this question.

Chairman: According to his opinion a point 22 bore rifle is more dangerous.

Shri Prabhu: And there are many weapons we have exempted from the Arms Act.

Shri U. C. Patnaik: In regard to the weapons used by your Rifle Association, are they confined to point 22 and air rifles?

Shri Prabhu: We use weapons of three or four kinds. With a child we begin on air rifle training. And air rifle training we begin at the age of six, seven or so. Till about the age of ten he goes on with this. And then he takes to the point 22 bore rifle. Point 22 is a small bore rifle with rim fire cartridge. In a long distance it goes further; but for target practice it is effective only up to fifty and hundred metres; beyond that it has no effective range. That is number two. The third kind of weapon used by us is the centre-fire cartridge rifle, that is big bore. And then the point 12 bore gun, that is the smooth bore gun or shot gun. Under one of the clauses here, licences in respect of the point 12 bore guns are to be given liberally; and I would certainly request, when the clause comes, that the Rifle Clubs be also included therein.

Shri U. C. Patnaik: Or rather, in clause 13(3)(a)(ii) you can say "point 22 bore rifle or an air rifle or a point 12 bore gun".

Sardar Daya Singh: Not point 12 bore, but shot gun.

Shri Menon: What is your reason? It is not in the memorandum.

Shri Prabhu: Because the Rifle Clubs also practise with these weapons, and just as we have liberalised the point 22 rifle for the members of the Rifle Clubs the same facility, if it is available for sport, could be made available for target practice also.

Shri C. P. S. Menon: Won't it be covered by clause 13(3)(a)(i)? Sub-clause (a)(i) will cover shot gun, smooth bore gun. It does not cover point 22 bore, and that is why we have specifically mentioned it in sub-clause (ii). But smooth bore gun is already covered under sub-clause (i). The man can take a licence under sub-clause (i). But he cannot get one for point 22 bore under that clause, and that is why we have brought it under (ii).

Shri U. C. Patnaik: Mr. Menon, please consider if it is possible to give smooth bore guns also to the rifle association so that the members of the association can use them.

Shri C. P. S. Menon: This has been considered. It is already there in sub-clause (i).

Chairman: Even outside the Rifle Club you can have it.

Shri Prabhu: It was already clarified that this includes target practice also.

In clause 13, line 20, beginning with the words "in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association", I would also add "rifle club and rifle associations".

Shri B. D. Khobaragade: What is the difference?

Shri K. G. Prabhu: The difference is that under the Bill the individual members of the club are entitled to get a licence, but the clubs themselves are also possessing licence under form 15 of the present Act and we are now saying that the licensing of these point 22 bore weapons and other facilities should be extended to the clubs also.

Shri C. P. S. Menon: Is it necessary? We do not want to make this a big volume by adding everything. When Government recognises a club, it goes without saying that they will give the club licences. There is absolutely no question of it.

Shri K. G. Prabhu: The Government of India has been very kind enough to give facilities to the rifle club. Since 1951 Government of India have sent a number of circulars to the State Governments. The State Governments have taken copies of them and sent them to the district authorities for implementation. But the state of affairs, believe me, at the district level, are the same or worse than before. That is because they consider perhaps that the speeches made in Parliament are political only. Somehow they do not feel any change in the atmosphere at the district level. I can give a number of instances where many of us.....

Shri B. D. Khobaragade: For example?

Shri K. G. Prabhu: For example, for renewal of licences, much delay is caused.....

Shri B. D. Khobaragade: What is the usual period?

Shri K. G. Prabhu: 24 hours. Under the permission one month's period is given.

Shri Datar: When circulars are sent down to the district authorities for this purpose, is it your case that they are not complied with?

Shri K. G. Prabhu: I do not want to bring in controversial things here.

Shri Datar: You are entitled to do that.

Shri K. G. Prabhu: District authorities do not feel any change in the atmosphere.

Shri Datar: It is perfectly open to you to bring to our notice any case where what is stated in the circular is not complied with. I can tell you that. We do not want to hear vague charges. It is perfectly open to you to bring any charge against any particular officer in that connection. We shall have that matter enquired into by us as well as by the State Government.

Shri K. G. Prabhu: I do not consider it as a charge. I withdraw it. It is not my intention to refer to any charges here. What I mean to say is that after passing of this Arms Act in this country, the district authorities should feel that there is really a change in the atmosphere.

Shri Datar: Why do you anticipate that they do not feel so? You said that the political speeches made in Parliament are not being pursued. What is your charge? I am prepared to pursue it.

Shri K. G. Prabhu: I tender my apology for the same.

श्री विभूति मिश्र : सभापति महोदय, मैं यह जानना चाहता हूँ कि राइफल क्लब्स को मैम्बरशिप के लिए क्या कोई क्राइटेरियन होता है कि कौन शरूख उनका मैम्बर बन सकता है और कौन नहीं क्योंकि अगर कोई ऐसा क्राइटेरियन या प्रोपर स्क्रीनिंग उनके ऐंटीसिडेंट्स की नहीं कराई जाती तो ऐंटी सोशल एलीमेंट और चोर डकैत भी इन क्लबों के मैम्बर हो सकते हैं और वे वहाँ पर राइफल चलाना सीख कर बाद में समाज और जनता के लिए एक परेशानी और दिक्कत का कारण बन सकते हैं और वे सर्वसाधारण को तंग कर सकते हैं ?

Shri Datar: What is the qualification for membership in your association?

Shri K. G. Prabhu: We have requested in the first instance that every

member who should be admitted to the club will be approved by the District Magistrate. There is no member of a recognised rifle club whose name has not been approved. It is a long process and it takes time, three months and four months, and by that time one loses his enthusiasm.

Shri B. D. Khobaragade: What is the reason for this delay?

Shri K. G. Prabhu: This is not their only work. They have to conduct an enquiry.

Shri B. D. Khobaragade: Is it a routine enquiry?

Shri K. G. Prabhu: They go to the Police after enquiry. They get in writing that so and so is approved for being enrolled as a member of the club and before that the committee of the rifle club passes a resolution that he is admitted as a member.

Shri U. C. Patnaik: I wanted to know from Mr. Prabhu a little more details about the rifle association. It is true that he has now told us that the antecedents of the applicants are properly screened. Would you kindly tell us what are the activities of the association and what is the kind of training you give to the boys or the young people?

Chairman: That is a general question and you may please keep it in mind. Before that I would like to know whether you have got any other comment on the provisions of this Bill.

Shri K. G. Prabhu: With regard to clause 18(4), we suggest that no fee should be prescribed for appeal.

Shri Datar: You do not want any fees to be prescribed?

Shri K. G. Prabhu: That is correct.

Chairman: We shall consider it.

Shri Datar: It will be a nominal court fee, Re. 1 or so.

Shri B. D. Khobaragade: I would like to know whether it is possible for any aggrieved party to prefer an appeal without getting the order passed by the lower court.

Shri Prabhu: This Bill provides that it will be given to the applicant except in cases of public nature.

Shri B. D. Khobaragade: That means they will be debarred from preferring an appeal. Without getting a copy of the order, the aggrieved party will not be able to prefer an appeal.

Chairman: The rifle association is not a competent body to pass an opinion on that.

Shri B. D. Khobaragade: I just wanted to know his experience. I want to know whether he has experienced any difficulty in getting the licences for the members of the Rifle Association.

Chairman: He is not directly concerned with these things. His opinion will be just like a layman's opinion.

Shri Khobaragade: He may have dealt with a number of cases for licences. In some instances the licences might have been refused.

Chairman: Here the witness appears as an expert witness. We should specifically confine our questions to particular association as regards its functioning. As regards other matters, there are so many and his opinion will be just like the opinion of a common man. He is not an expert witness as regards that.

Shri Prabhu: Section 21(2).

Chairman: You have already answered.

Shri Datar: He wants the period to be three years; otherwise it becomes difficult, he says.

Shri Prabhu: The weapons are under the custody of Government.

Supposing my licence is cancelled today, I deposit my weapons in the police custody. The arms are deposited for safe custody also. There are so many cases in which we are to intervene with the Government. The licence is renewed on the one hand and confiscated on the other hand. The District Magistrate has no authority to condone the delay.

Shri Menon: All your reasons are eliminated by the provisions already made in the later sub-clauses.

Shri Prabhu: Sections 30 and 31—There appears to be no provision to condone the delaying renewal of a licence or such other technical offences committed unintentionally. The licensing authorities may be authorised to condone the *bona fide* lapse/lapses. It may also be substituted that during the grace period permitted for the renewal of a licence, the licensee should be allowed to possess the weapon and should not be required to deposit the same as under the existing rules.

Shri Menon: I would like to know how you would provide for the condonation of offences in the Act which prescribes penalties for those offences.

Shri Prabhu: Technical offences are practically committed by many people.

Shri Datar: We shall see whether there are any breaches of technical provisions.

Shri Prabhu: Section 41—Regarding this I have said that there should be no exemption.

Shri Patnaik: What are your grounds for saying that? I wanted to know whether in Bombay area there are reports that ammunition from some of the exemptions are going to undesirable hands.

Shri Prabhu: I have mentioned about this in my memorandum. One is undesirable elements; there is regular trade channel also. When ammunition comes, I can hold it to

any level. I would not say that all are doing it.

Shri Datar: We have understood you.

Shri K. R. Achar: You say that there should be no exemptions at all. But there are certain instances where exemptions are granted. Do you know the conditions in some places?

Shri Datar: You ask the Coorg man about that; he does not know about it.

Shri Patnaik: Regarding this punishment, you have put down three years for almost all the contraventions except only one case. May I know whether you would like to place all the contraventions on the same footing or would you like that some contraventions, particularly for hand grenades, artillery weapons etc. there should be a different type of punishment more deterrent than this?

Shri Prabhu: Punishment usually is according to...

Shri Datar:.....gravity of the offence.

Shri Patnaik: Would you like to suggest more deterrent punishment for anti-national and anti-social activities of a deliberate nature.

Shri Prabhu: Certainly.

श्री बिभूति मिश्र: सभापति महादय, आर्म्स बिल में राइफल क्लब्स और राइफल ऐसोसिएशन्स का स्थान है तो मैं जानना चाहता हूँ कि कंट्री के डिफेंस और ए.टी. सोशल एलिमेंट्स का सामना करने में यह राइफल क्लब्स हिन्दुस्तान भर में जहाँ जहाँ यह कायम हैं वया क्या काम करते हैं, और किस हद तक यह अपने इस उद्देश्य में कारगर सिद्ध हुए हैं ?

Shri Prabhu: It is a correct point and our Association has been started since last 7 years.

Shri Bibhuti Mishra: It was started in Ahmedabad long ago.

Shri Prabhu: It was started in 1938. All over the country we have started only 7 years ago. It is the very thing and it is with that aim which the Hon'ble Member has mentioned we are all striving to build up an organisation which will make us internally secure from all kinds of fears in the minds of people. To give only one example, in Khera district—Mr. Patnaik will bear witness; I took him over the whole district; it is notorious district for dacoities and other things. The Gram Raksha Dal or the Village Defence Organisation was reorganised and today they have 60,000 trained men in the Village Defence Organisation in one District. The organisation is run by one spirited man, a pre-revolutionary, Samalbhai Patel. Today there are hardly any dacoities.

Shri Patnaik: Shri Bibhuti Mishra is asking this question. Why is it not being done in the Bengal-Assam border and the U.P. border.

Shri Prabhu: I have already answered that question. That is because there was one man who made it his mission to move from village to village to organise that. In fact I took Shri Patnaik at 2 O'clock to a village where he saw the village people moving in the night round. We did not tell them that somebody is coming. We took him to two or three villages. They were patrolling there because so many things were happening; the crops were destroyed; cattle thefts were taking place and so on. These have stopped. It is our intention to build up this organisation right up to the village—from the Gram Raksha Dal to—shall I say—the last line of defence in the defence service organisation. It will all depend on the facilities given and the personnel who work it out and I can assure you that we will try to implement the scheme to the best of our ability and try to come upto your expectations.

Shri Datar: Have you extended your activities to the rural areas by now?

Shri Prabhu: We have tried to go to the towns. In the villages we are working only through the village defence organisation. Our main task there is co-ordination. We do not run these organisations ourselves. They are all independent. The Gram Raksha Dal is practically a State organisation in Bombay. We train them and among its 60,000 people, there are 12,000 trained in rifle-shooting under our course and there are about 1,000 girls who have been trained.

Shri Achar: Why have you not gone to the border areas?

Shri Prabhu: We had not extended ourselves to that extent and it is our wish that we should extend ourselves to the rural areas.

Shri Patnaik: You have issued an appeal to the Members of Parliament also to give you the necessary co-operation in their respective areas. Are you not feeling the difficulty about the price of ammunitions?

Shri Prabhu: I can summarise our difficulties into three categories; availability of ranges and cost of ammunition are two of them. It is a richman's sport today. Till two years back we have been looking forward to air rifle but it has been included in the Arms Act and so there will be no future for these activities. Thirdly, the Arms Act that is being liberalised now, was the difficulty. Now, with a liberalised Act we hope to make good progress. But we have to fight against the psychology of people also. It is very difficult to make people believe that a boy of 7 or 8 or 10 could use a weapon safely for sports purposes. The idea is that it is meant for something else and not for constructive purposes. We have battled through that process and we are stabilising ourselves.

Shri Datar: The liberalised Act would help you to a great extent?

Shri Prabhu: Provided there is cheaper ammunition, and ranges and also provided the air rifle goes out of it. Otherwise, I do not find any liberalisation at all.

Shri Fatehsinhji Ghodasar: Perhaps you may not be knowing that I belong to the same district about which you have been talking. I belong to the Kaira district and I know Mr. Patel you mentioned. I know what is happening there. The picture painted by you about these dacoities, etc. is not very true.

Shri Prabhu: The effort is there. You will certainly agree with us that things have very much improved. I would not say that these things have completely gone.

Shri Fatehsinhji Ghodasar: I do not agree with you at all.

Shri Prabhu: In that case, I would accompany the hon. Member and if I am convinced, I shall change my views.

Shri Khobaragade: On page 3 of your memorandum you have made some remarks. Do you know any instances where any individual who has applied for a licence was humiliated?

Shri Prabhu: There are so many instances of this sort which I would like to discuss individually and convince the hon. Member. But I would not like to go into controversies while talking on the Arms Act and spoil my case.

Shri Khobaragade: I do not want specific instances. Can you just enlighten us as to what are the difficulties experienced?

Sardar Daya Singh: A few years back there was a big notice outside the District Magistrate's office saying "No interview regarding the arms licences".

Shri Khobaragade: Did you take up this matter with the State Government? He has to exercise his powers under a particular Act and if that particular authority has not exercised those powers, you should take up the case to the State Government.

In view of such things could you suggest any particular step so that the applicants will not be harassed?

Sardar Daya Singh: Now it is very clearly laid down that they shall grant the licence when there is not something against an individual.

Shri Khobaragade: Can you suggest any positive steps to remedy the situations mentioned in your memorandum?

Shri Prabhu: Liberalise the Arms Act. I think the liberalised Arms Act will shake up the minds of the people at the district level. That is my hope.

Shri Khobaragade: If some individuals with one or two arms apply for a licence they do not get a licence? Is it so?

Shri Prabhu: Yes. For instance, in Bombay State there is a regular order that not more than 2 weapons should be given and people who are having six or seven weapons are questioned and interrogated. Many of you will agree that there is a sentiment of having the possession of these weapons from the old days. But they are asked to part with them.

Shri Khobaragade: What is the purpose of possessing more than one arm?

Shri Prabhu: That is an executive order by the State.

Shri Khobaragade: What is the purpose of possessing more than one arms?

Shri Prabhu: A sportsman requires about six arms or weapons. If he is a shooter, he requires at least seven weapons of various types, in order to be able to participate in these things. If he is a *shikari*, there is the bird game, there is the medium game, and there is the big game and so on, and for these he would require about six or seven weapons, besides a pistol. He spends money for these things.

Shri Khobaragade: You mean that licences are not being granted by the executive authority for these things?

Shri Prabhu: New licences are not being granted for more than two weapons.

Shri Khobaragade: You want a liberalisation in that respect?

Shri Prabhu: Yes.

श्री विभूति मिश्र : जैसे कांग्रेसमैनों के लिये यह नियम है कि वे हाथ की कती हुई और हाथ की बुनी हुई खादी पहनें और ४ आ० पैसा दें तभी कांग्रेस के म्बर हो सकते हैं, उसी तरह में जब राइफल ऐमो-सिएशन को सरकार ने अपने बिल में जगह दी है तो उन के लिये भी तो कोई काइटेरियन होना चाहिये कि वे कौन कौन से कार्य करेगे तब उन को मान्यता मिलेगी ।

Shri Datar: May I tell you that this Rifle Association is doing very good work?

Shri Prabhu: We shall accept any duties.

Shri Datar: They are doing very good work.

Shri Bibhuti Mishra: But what has been stated by him has been controverted by the hon. Member from Kaira.

Shri Datar: What can the witness do about it? I would request the hon. Member to go to Kaira and have a clearer picture.

Shri Bibhuti Mishra: The hon. Member from Kaira is here and he has controverted what the witness has stated.

Shri Datar: But, ultimately there might be different assessment also.

Shri Bibhuti Mishra: Maybe, but the person who has controverted it is a Member of Parliament.

Sardar Daya Singh: Our purpose is to train people in the art of rifle shooting. You can take any work from them.

Chairman: On behalf of the Joint Committee, I thank Shri Prabhu and Sardar Daya Singh for their kind

presence here today, and for having given us some enlightenment on important points.

Shri Datar: And for giving us very good and valuable advice.

Shri Prabhu: May I take this opportunity of thanking the Government of India, and the Joint Committee and the Members of Parliament for the interest that they have taken in our activities? Had it not been for their inspiration, I do not think we would have been able to

carry on to the extent that we have done. I only wish that this Joint Committee will give us an Act which will meet the aspirations of an independent nation.

Shri Datar: That is what we are doing.

(The witnesses then withdrew)

The Committee then adjourned.

JOINT COMMITTEE ON THE ARMS BILL, 1958

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE ON THE ARMS BILL, 1959

Saturday, the 18th July, 1959 at 09.36 hours.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

- | | |
|------------------------------------|--------------------------------------|
| 2. Shri Missula Suryanarayanamurti | 13. Shri Ansar Harvani |
| 3. Shri Bibhuti Mishra | 14. Shri Devanapalli Rajiah |
| 4. Shri Mohammad Tahir | 15. Shri Bangshi Thakur |
| 5. Dr. Gopalrao Khedkar | 16. Shri Satish Chandra Samanta |
| 6. Shri Chhaganlal M. Kedaria | 17. Shri Hirendra Nath Mukerjee |
| 7. Shri M. K. M. Abdul Salam | 18. Shri Mohan Swarup |
| 8. Shri R. S. Arumugam | 19. Shri Shambhu Charan Godsora |
| 9. Shri K. R. Achar | 20. Thakore Shri Fatesinhji Ghodasar |
| 10. Shri Bhakt Darshan | 21. Shri Uma Charan Patnaik |
| 11. Shri Jagan Nath Prasad Pahadia | 22. Shri Atal Bihari Vajpayee |
| 12. Shri Raghubir Sahai | 23. Shri Shankarrao Khanderao Dige |
| | 24. Shri B. N. Datar. |

Rajya Sabha

- | | |
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| 25. Shri Ahmad Said Khai | 29. Thakur Bhanu Pratap Singh |
| 26. Shri Har Prasad Saksen | 30. Shri Govind Chandra Mishra |
| 27. Shri Narotham Reddy | 31. Shri N. C. Sekhar |
| 28. Shri Onkar Nath | 32. Shrimati Violet Alva |

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICES

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESSES EXAMINED

- I. Shri A. N. Kashyap—*Secretary, Home Department, Government of Punjab.*
 II. Shri Bolakaranda M. Cariappa, New Delhi.

I. Shri A. N. Kashyap, *Secretary, Home Department, Government of Punjab.*

(*Witness was called in and he took his seat.*)

Shri Kashyap: My first submission relates to the proviso under Clause 3 of the Bill. Here, it is stated as follows:

“Provided that a person may, without himself holding a licence, carry any firearm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder for purposes of sport”.

Under this proviso, carrying of the firearm has been permitted for the purposes of sport. If such a provision is allowed to stand, the firearm may be misused. I would submit, for your consideration, Sir, that this point may be further looked into.

Chairman: Without himself having the licence, he may carry it. Now, what is your objection?

Shri Kashyap: My objection is only to the use of the firearm for the purposes of sport, because, the person concerned is likely to misuse the authority and may use it for activities which may not be all good.

Shri S. P. Sen Verma: If the person carries firearm in the presence of the licence holder?

Shri Kashyap: I have no objection. When he carries the fire arm under the authority in writing by the licence holder.....

Chairman: If he carries the firearm in the presence of the licence holder, there you have no objection.

Shri Kashyap: Then the licence holder will be able to see that he does not want him to make any misuse of the weapon.

Chairman: There you have no objection. But what do you suggest in this regard?

Shri Kashyap: My objection relates to carrying of the firearm for purposes of sport.....

Shri Datar: Suppose the party is sent ahead. He may be sent by a bus, truck or motor car with the weapons.

Shri Kashyap: My understanding of the proviso has been that when he carries the weapon on behalf of the licence holder, he is authorised to use the weapon.

Shri Datar: No, no. He is not using it.

Chairman: What is the next point?

Shri Kashyap: I have to make a submission relating to Clause 9(1)(a), sub-clause (ii). Instead of ‘six months’ the period should be ‘three months’.

Chairman: As in the English law. Yes. What is the next point?

Shri Kashyap: My next submission is regarding Clause 14(b) (ii). There the words ‘security of the public peace’ are mentioned. I think the words ‘public safety’ may also be added to it.

Chairman: You want ‘public safety’ to be added to it.

Shri Datar: Somebody has suggested it already.

Shri Kashyap: That term does not cover individual cases where there is likelihood of misuse of the weapon. If you add the words ‘public safety’

this will become more comprehensive. Any act which endangers the safety of the public will be covered under this term.

Shri Datar: Is not 'public safety' included in 'public peace'?

Shri Kashyap: Public peace essentially means something relating to a riot or an affray.

Chairman: Is it your idea that action regarding disturbance to public peace is provided but that public security is not provided for? The person may not keep it secure. Some other person may snatch it from him and then he may commit some crime.

Shri Kashyap: That was the idea behind.

Shri Datar: We shall consider that.

Shri Kashyap: Thank you. I have just one more point to urge and that is in relation to Clause 22(1). Sir, the power of search and seizure has been conferred on the 1st Class Magistrate.

Chairman: We have not specified here that he should be a 1st Class Magistrate.

Shri Kashyap: Normally, Magistrates have much larger jurisdiction under their control. It is just possible that he may not be able to exercise this power conferred on him throughout his jurisdiction. My submission is if the officer-in-charge at the Police Station, who is also known as S.H.O. is given this power, it is not likely to be abused.

Chairman: He can inform the Magistrate and take out a warrant.

Shri Kashyap: There may be some cases of emergency where this time-lag may do damage.

Shri C. P. S. Menon: Under the current Act, it is the magistrate who has been given this power.

Shri Kashyap: In Punjab, we have authorised S.H.Os. also.

Shri Datar: How did you allow it? Is it under the rules?

Shri Kashyap: I can't tell you the exact provision at the moment, but this is the practice in Punjab State.

Shri Datar: That will be the practice against law. Even rules also do not make this provision. The right of search and seizure should be under the authority of the judicial officer so that he could consider the whole matter carefully instead of entrusting it only to the police officer where it is feared that there might be some arbitrary excesses on his part. You consider that question.

Shri Kashyap: My submission is, there may be circumstances under which the time-lag between the S.H.O's obtaining orders from the magistrate, and taking the search may defeat the very purpose of the clause.

Chairman: You cannot provide against all eventualities.

Shri Datar: Mr. Chairman, you will find, it is deliberately put in, that the magistrate may after having recorded the reasons for his belief, cause a search to be made. . . .

Shri Kashyap: That means it will be necessary for the S.H.O. to get an order from the magistrate before he executes the search.

Shri Datar: The liberty of the subject has to be protected to the extent it is possible.

Shri Kashyap: These are my amendments, Sir. Subject to that, I am in favour of liberalising the provisions in the Arms Bill as conceived.

Chairman: Please refer to clauses 3 and 4. There must be some areas where certain arms other than fire-arms are usually used by persons of that locality.

Shri Kashyap: Like *kirpans* by Akalies.

Shri Datar: Carrying of *kirpan* by Sikhs is provided in the Constitution on religious grounds.

Chairman: There are certain other arms, like, daggers, spears and all

that, which are kept by certain people. Now, in case of promulgation of order under clause 4, the effect of the promulgation will be that every person who has got a licence is not at all disturbed in the possession of that arm or the use of that arm.

By clause 13 we are liberalising the licensing in the case of smooth bore guns and shot guns, practically to the greatest extent. There we lay down that unless a person is specifically objected to by the licensing authority, he shall have the right to possess a shot gun. There may be persons who may not be entirely trustworthy; they can also retain the gun. The people affected by this clause are only those who have not the means to purchase firearms, but who have got the absolute necessity, day-to-day necessity to keep daggers, etc. They are affected by this clause because as soon as an order is promulgated under clause 4, the possession of arms will become illegal. In the ordinary circumstances the right to possess those arms is not touched at all by the law. They can possess them, they can carry them, they can do everything. But as soon as an order is promulgated under clause 4, the carrying as well as possession of those small arms become illegal, unless their owners take out a licence. Now, from your experience as the Home Secretary, can you give us an idea whether it is possible for these people to take out a licence for possessing these spears, daggers, etc. from the licensing authority who may be ten or twenty miles away from their house? These people may not have got the means to walk the whole distance to the licensing authority. The natural consequence is that they have to deposit it at the nearest police station or give it to any other person who is authorised to take delivery of those weapons. Do you think that this is absolutely necessary? I might qualify that and ask you: Do you think that even the possession or acquisition of those arms—we may make carrying those arms illegal—will do serious harm to the maintenance of law and order?

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Shri Kashyap: I may submit that these weapons like spears and *barchhis* can be very dangerous particularly when tempers run very high and people on such occasions do not spare their use even from committing murders. As I understand the provision of clause 4, power vests in the Central Government to ban its possession under certain circumstances in certain areas. This is not a normal procedure. It is a power which is exercised in certain circumstances keeping in view the law and order situation.

Shri Datar: The Chairman's difficulty is this: He says that ordinarily such arms are not subject to licence at all. But clause 4 provides for exceptional circumstances where Government would like to regulate the use of or possession of arms. Under these circumstances, a fear is likely to be felt that this order being of a very wide character, those who stay far away in the outlying parts may find it difficult to get licences.

Shri Kashyap: The position that is prevailing in the State of Punjab is that the possession of a spear or its exhibition in the open public has been banned in certain areas like Ferozepur, Amritsar and a few other areas. This step was necessitated because it was felt that the crime of murder was increasing and most of the weapons used for committing this crime were spears and *barchhis*. But we gave them a time limit within which they were to deposit their arms in a police station or to apply for a licence. If this procedure is adopted, it is not likely to put them to any hardship.

Shri Datar: If you give a time limit, will not these weapons go underground? I am merely pointing out a possibility.

Shri Kashyap: But that possibility of weapons going underground will be restricted to the persons who are undesirables. But normally speaking, I think people will come forward either to deposit their weapons or to take out a licence.

Shri Datar: We are anxious that no inconvenience should be caused even in an emergency to those people who are holding it in a legitimate manner.

Shri Kashyap: This is a very useful check provided for in the Bill and we should retain it.

Chairman: Can it be done by making a provision in the Police Act?

Shri Kashyap: I do not think because the parent Act is the Arms Act and it includes arms other than the firearms. The provision should be appropriately in this Bill.

Shri C. P. S. Menon: In order to meet this point, can we not allow subordinate authorities, say, all First Class and Second Class Magistrates, to license these minor arms, not the firearms?

Shri Kashyap: Yes; the procedure to be adopted for licensing the arms can be much simpler.

Shri C. P. S. Menon: Then, it will be easier for these people to get licences.

Shri Kashyap: There is no particular risk in simplifying the procedure.

Shri Datar: Nor any inconvenience. You should look at it from the point of view of inconvenience to the people.

Shri C. P. S. Menon: There was another suggestion by some witness the other day that only the carrying of these swords etc. need be banned or regulated, but their possession need not be controlled. What is your view?

Shri Kashyap: There may be circumstances where even the possession can be very harmful to the public peace and safety.

Chairman: You modify it in this way that it may not be necessary in all cases to ban the possession.

Shri Kashyap: This is what I understand from clause 4.

Chairman: You have said that there may be certain cases where even the

possession may be dangerous. Does it not imply that there may be cases that possession may not be dangerous? The Magistrate will use his discretion in such cases.

Shri Kashyap: Possession and use go together.

Shri Datar: You are anxious that the word 'possession' also should be retained in clause 4?

Shri Kashyap: Yes.

Shri Ahmad Said Khan: Your point is that in cases of emergency the possession of arms other than firearms should also be prohibited?

Shri Kashyap: It is provided under clause 4.

Shri Ahmad Said Khan: Will it not go underground in an emergency?

Shri Kashyap: My submission is that in an emergency the Police will be very alert, that they will see that even though the *badmash* who has these weapons goes underground, the weapons will not go underground.

Shri Ahmad Said Khan: What is your experience? Do they not go underground?

Shri Kashyap: My experience is not that. In a majority of cases these people are very anxious either to get a licence whenever a ban is imposed or to deposit their weapons with the appropriate authority.

Shri Achar: You have said that there can be liberalisation in this regard. May I know in what direction it can be liberalised?

Shri Kashyap: In the year 1949 in view of the law and order position then prevailing in the State, it was felt that the number of licences issued was unduly large. There was then a proper screening and the number was limited to 2 per cent of the total number of licences in a particular district. As and when the law and order position improved, in the year 1956 this quota was raised to 4 per cent. This

really meant liberalisation. We have recently reviewed the position and we find that the number of arms duly licensed, used in the commission of major crimes is so negligible that we could even afford to liberalise it further, particularly in our State in the border districts, which are three in number, namely Gurdaspur, Amritsar and Ferozepur. Government have recently taken a decision to enhance the quota of 4 per cent to 8 per cent for new licences. Government have also provided that licences in the border districts, other things being equal, should be given to the villagers living within twenty miles of the border. These are the steps which the State Government have already taken to liberalise the issue of licences.

Shri Achar: So, if I understand you correctly, you are thinking only of the increase of the percentage and not of the merits of each particular case.

Shri Kashyap: When I was mentioning the percentage I was only submitting that more licences are being given and that liberalisation is there.

Shri Achar: Don't you think it should depend on the merits of each case?

Shri Kashyap: Well, Sir, I do. In fact, as I notice from the Bill, clauses 9 and 14 to my mind, with the one suggestion made by me that 'public safety' should also be added there, would give adequate safeguard that licences do not go into wrong hands.

Shri Achar: In view of the incidents on the border in the Punjab, especially of lifting of cattle by some Pakistanis who come into our territory and take away the cattle, do you think that anything can be done by making any provision in this Arms Bill with regard to remedying that evil?

Shri Datar: By way of special precautions.

Shri Achar: We are having frequent troubles in the Punjab and other border areas.

Shri Kashyap: I would make one suggestion, if I may. In our State arms licences are regarded as a sort of dignity and an extra status is given to the man who has an arms licence, with the result that he becomes so cautious to ensure it that he does not misuse it. Otherwise he will lose the licence and be regarded as a down-cast.

Chairman: That dignity is going down under clause 13!

Shri Kashyap: That kind of feeling in the minds of people will be there for a long time to come, and I think they will improve in their morals and so on.

Chairman: Have you constituted a village defence scheme?

Shri Kashyap: We have done in the Punjab.

Chairman: And armed them specially?

Shri Kashyap: If you will permit me, Sir, I won't disclose the figures. But our aim is to train almost all able-bodied persons who are desirable otherwise and who are not likely to misuse it. The scheme is working fairly well. Under the village defence scheme what we do is to give rifles to be used in case of an emergency, where they can help the police in the police picket posts whenever an emergency arises.

Shri Achar: From your experience I wish to know whether it is not a fact that these licences are issued on the recommendations of the police officials and whether the district magistrates are not more or less dependent entirely on the recommendations of the police officials?

Shri Kashyap: I won't say that. I think the reporting officer has a certain amount of responsibility to Government. If it comes to the notice of the Government that he is indiscriminately recommending the issue of these licences without verifying the antecedents or character of the persons concerned, he is going to land

himself in trouble sooner or later. That is a very big check.

Chairman: Do you think that this check under clause 14 is quite sufficient?

Shri Kashyap: As I have submitted earlier, with the addition of only one suggestion made by me, that is 'public safety'.

Shri Achar: I do not know the position about the Punjab, but at least in our State there is a lot of complaint that these police officials discriminate very much and do not make proper investigation and that they abuse their position. In fact, people go to the extent of saying that monetary considerations come in and so on. And the district magistrates have more or less to depend on the reports of the police officials in granting the licences. What is the position in the Punjab? Are there such complaints?

Shri Kashyap: In the Punjab it is a dual agency for making verifications, namely, the police on the one side and the revenue authorities on the other. And therefore the truth is likely to come out. And I must say that no such complaint has come to notice in the Punjab.

Shri Achar: Are the revenue authorities also consulted?

Shri Kashyap: Yes, because under the present Act you have to verify the land, the Income-tax paid etc. For that we have to ask the revenue authorities, and unless they recommend that the man is fit and proper the licence is not given.

Shri C. P. S. Menon: We ask the State Governments to use not only the police but also the magistrates and other sources.

Shri Kashyap: In fact in most of the districts the *ilaka* magistrate is taken into consultation by the Deputy Commissioner before issuing the licence.

Shri Achar: May I draw your attention to the provision regarding

appeal. As proposed in clause 18 of the Bill, and as is contained in the existing Act, any appeal in respect of granting or not granting licence is to an executive authority—'hereinafter referred to as the appellate authority'. No appeal is provided either to the district judge or to any judicial person. Do you think the position will improve if an appeal is provided to the district judge?

Shri Kashyap: My submission in this behalf is that the licensing authorities in the State of Punjab are the Additional District Magistrates or District Magistrates. Their orders are appealable to the Divisional Commissioner. The Government has the power of review or revision. On the top of that, there are so many cases which really find their entry into the High Court also through applications for writs. So the pronouncements are given at the highest level.

Chairman: You might have noticed that here there is no revisional authority at the State level.

Shri Bibhuti Mishra: Just now you mentioned that this Bill is going to regulate the giving of licences. I would like to know how you propose to solve the procedural difficulty. Now, one has to go to the sub-inspector, then to the inspector of police, then to the deputy superintendent of police, then to the superintendent of police, and then to the district magistrate. In-between the applicant and the district magistrate there are so many people.

Shri Kashyap: The workable arrangement in this case would be as we have done in the Punjab where we have given a time-schedule for the applications to be entertained, to be dealt with at the level of the sub-inspector of police, at the level of the tahsildar, at the level of the S.D.O. My submission is that it will be binding down the hands of the executive to a very large extent, because the executive may be facing so many things at a time in a particular district or place. The stress should be that there should be expe-

ditional disposal, and even the executive is very anxious to see that there should be no delay in the issue of the arms licence.

Shri Menon: If you lay down a time-limit, it might mean that after the time-limit, a man can possess a firearm without a licence.

Shri Datar: It does not mean that.

Chairman: Shri Bibhuti Mishra has said that there is an inordinate delay at present, and, therefore, some target should be fixed for disposal of the application for licence.

Shri Datar: The chairman's desire is that there should be some obligation placed upon the authorities to give the licences as early as possible.

Shri Kashyap: The executive is very conscious of that fact, and as I pointed out, we are already very anxious that these applications should not be unnecessarily delayed at any level.

Chairman: But you say at the same time that if any target date is fixed, it will mean hardship on the executive.

Shri Kashyap: Because their hands will be bound down; and there will have to be some sanction behind that; if the executive is not able to do so, then either he should be penalised or prosecuted and so on. So, I do not think it is desirable to have any such provisions in the law.

Shri Bibhuti Mishra: I want to point out that in Bihar there are so many districts having a population of about thirty to forty lakhs; so, it is very difficult for the man to reach the district magistrate; in U.P. however, there are districts having a population of only ten to twelve lakhs, whereas in Bihar there are districts with not less than 25 lakhs population; therefore, it is very difficult for the people in Bihar to reach the district magistrate and so many other authorities. There lies the difficulty. Therefore, there must be some time-limit.

Shri Menon: For certain types of guns, even sub-divisional magistrates are authorised to issue the licences.

Shri Kashyap: I was just going to submit that the additional district magistrates and the sub-divisional officers have the powers to issue arms licences for guns. So, really, the question of their travelling all the way to the deputy commissioner would not arise in this case.

Shri Menon: In certain hill districts, we have even permitted tahsildars to issue licences, because the people cannot come all the way.

Shri Kashyap: In fact, we have liberalised the procedure in regard to crop protection licences.

Shri Bibhuti Mishra: Which are those districts where tahsildars are authorised to issue licences?

Shri Menon: In Himachal Pradesh and in Jammu and Kashmir, for example. These are the districts that I remember just at the moment. There may be others also.

Shri Bibhuti Mishra: We have about two crores of population living in Bihar in jungle areas, such as Chotanagpur and some portions of my own district. There, the district magistrate is not the final authority but only the divisional commissioner.

Shri Menon: There are areas where the sub-divisional magistrates are given the power.

Shri Bibhuti Mishra: That is not so in Bihar and Bengal.

Chairman: We shall consider that point.

Shri Achar: What I am thinking of is not about the question of time-limit. My main point is this.

Chairman: On this question of desirability of fixing any time-limit, if any other hon. Member wants to ask any questions, he may ask now, so that this question may not be repeated afterwards.

Shri Vajpayee: Shri Kashyap has just stated that there is a time schedule in the State of Punjab for issuing licences. May I know the nature of that time schedule.

Shri Kashyap: I do not remember the time-limit at the different stages, but we have tried to fix a time-limit at the stage of investigation by the SHO, at the stage of investigation by the tahsildar, the disposal of the applications by the superintendent and so on.

Chairman: That is executive procedure.

Shri Vajpayee: He feels that there is necessity for such a time-schedule.

Shri Kashyap: But not to the extent of saying that it should find a place in this Bill, for obvious reasons which I stated earlier.

Shri Datar: The executive orders are there.

Shri Achar: The point I was thinking of is not about the time-limit. The point is this. Now, the issuing of licences, the reporting by the police, the hearing of the appeal etc. are all departmental and are in the hands of the executive. Will there be any harm if the appeal is to the district judge or to the judiciary? For, there is a feeling in the country that when the thing is departmental, especially depending on the police, the licences are not properly granted. So, there should be a judicial mind exercised over it, and, therefore, the appellate authority must be the district judge. Do you approve of that proposal?

Shri Kashyap: I have already made the submission that persons who are aggrieved by the orders of the licensing authority or the orders passed against them in appeal have an opportunity to go to the High Court in writ applications.

Shri Achar: But as it is, there is no appeal to the High Court, not even to the district judge. Do you think

there will be any harm if the appeal is allowed to the district judge?

Shri Kashyap: My objection to that will be only this, that the judicial officers as such do not possess up-to-date information, from the day-to-day point of view, which the executive does at different rungs.

Shri Datar: You mean law and order.

Shri Kashyap: That is the only point where we have got to be cautious.

Shri Achar: Do you not think that the reports of the SHO or the circle inspector and so on will be giving those facts to the district judge? Just as the appellate authority now considers all those materials, likewise, the district judge also will be considering all those things. A judicial frame of mind would be better to meet the situation than a district magistrate who is only an executive authority.

Shri Kashyap: My submission is that the executive authority, in view of the special problems of law and order, should be left to decide these things.

Shri Menon: If the appeal lies to the judicial authorities, do you think, as the question of delay has also been raised earlier, that there will be more delay or less delay in the disposal of cases?

Shri Kashyap: I have not had much experience of the judicial authorities, but my own feeling is that there is likely to be delay, and not expeditious disposal.

Shri Datar: Do you not think that the executive authority is competent to dispose of all these matters, and it would not be proper for the judicial authorities to enter into such questions? It would be beyond what is their proper purview.

Shri Kashyap: I have stated so.

Shri Achar: Are you aware of the fact that in England, the appellate

authority is the court of quarter sessions?

Chairman: That is a fact.

Shri Raghbir Sahai: I am entirely at one with you that the licensing authority and the appellate authority should be the executive. But are you satisfied that it is working well? For, before these licences are granted, so many contributions and subscriptions are being demanded from the applicants and they are put to a lot of unnecessary harassment. Do you approve of these things?

Shri Kashyap: I do not know of any such general complaint, but I cannot say that there is not an isolated case here and there. But no such general complaint has come to light with us.

Shri Raghbir Sahai: So far as U.P. is concerned, I may inform you that contributions for so many funds, such as the National Savings Certificate, for the Plan certificates and so on are being demanded from individual applicants by the authorities, before the applications are considered.

Shri Kashyap: I am not aware of the conditions prevailing in U.P. But in Punjab, as I have already stated, there is no such general complaint.

Shri Raghbir Sahai: Do you think that the present system of the licences being ultimately granted by the district magistrate and the appeals lying to the commissioner of the division may be changed this way that the subdivisional magistrate may be the licensing authority and the appeal may lie with the district magistrate or the district Commissioner or district magistrate, to ensure that the minimum time is taken before a licence is granted or refused?

Shri Bibhuti Mishra: What is the time?

Shri Kashyap: I could not tell you offhand, but it is not more than three months, I think.

Chairman: It depends on the executive authority of the State Governments.

Shri Vajpayee: A time-limit should be fixed. That is my point.

Shri Bibhuti Mishra: This Act is being made by the Central Government, and the State Government has to give a time-limit.

Chairman: The point made by the Members is whether it is not desirable to put down any time-limit by which the licence should be granted or refused, whatever it may be, from the time of application.

Shri Kashyap: I have already given my reasons why this authority should vest with the executive because they are the best judges of the situation prevailing in the districts.

Shri Vajpayee: In the Punjab the Sikhs have a right to possess and carry kirpans under the Constitution. I would like to know whether the fact has adversely affected the law and order situation there.

Chairman: I will ascertain whether there is any Member who wants to put a question on clause 18.

Shri H. P. Saksena: I want to put a question. May I know the reaction of the witness to the removal of property condition for the granting of licences?

Shri Kashyap: I have already said that we generally approve of that.

Shri Vajpayee: Under the Constitution the Sikhs in the Punjab have a right to possess and carry kirpans. May I know whether it has adversely affected the law and order situation there?

Shri Kashyap: Not so much. I have got the figures of crime for the last 3 or 4 years. It may be discovered that crime has been definitely on the decrease. I am including the figures for 1957-58 but not for the earlier years for Pepsu.

Shri Vajpayee: If citizens other than the Sikhs are also allowed to keep and carry swords and kirpans, do you think that it will lead to a

worsening of the law and order situation?

Shri Kashyap: As far as I am aware, there has been no demand of this kind. This particular exemption in the case of a small community like the Sikhs is by way of a religious symbol.

Chairman: Under the proposed amendment, others can also use. There is no bar. The question is whether an emergency has arisen under section 15 of the present Act and whether the Sikhs have been prevented at that time from carrying these kirpans.

Shri Kashyap: This is a right given to them under the Constitution.

Shri Datar: After the introduction of the Constitution, has any occasion arisen for the Punjab Government to issue an order banning the use of kirpans by the Sikhs?

Shri Kashyap: Not during my time. But such a thing is possible because of the law and order situation.

Chairman: Only when an order under section 15 is promulgated that there is an emergency. So, the question is whether there was any occasion in any area of the Punjab when the carrying of arms was absolutely banned and whether at that time the kirpan was also excluded.

Representative of the Ministry: Under the present Act this can be done under section 27.

Chairman: Shri Vajpayee's question is whether, in the case of an emergency arising under the proposed section 4, you would like to ban the kirpan also or not.

Shri Kashyap: It depends upon the circumstances prevailing at the time.

Chairman: If this Act is passed tomorrow and section 4 is promulgated in a certain area, would it require the kirpans also to be surrendered unless they are exempted by a further exemption?

Shri Kashyap: The distinction in that case may be between a sheathed kirpan and an unsheathed kirpan. If it is carried as a symbol of religion and if it is sheathed it may be allowed if it is unsheathed it may not be.

Chairman: The Sikhs carry it as a matter of religion. So, in case of an emergency, do you think they will be allowed to carry the kirpans or will they be disarmed completely?

Shri Datar: It is a hypothetical question and how can he answer it?

Shri Ahmad Said Khan: May I know the size of the kirpan in Punjab?

Shri Kashyap: I could not tell you off-hand. There is some description.

Shri Raghuraj Sahai: What is your experience? Has it come to your notice that kirpans are being used for committing crimes?

Shri Kashyap: It has not particularly come to the notice of Government.

Shri Fatehsinh Ghodasar: Is it not discriminative to allow one community to possess arms and not allow the other communities?

Shri Datar: The Constitution is there; how can he answer that question?

Shri Fatehsinh Ghodasar: We allow the Sikhs to possess kirpans; we do not allow others to possess even knives. Is it not discriminatory?

Chairman: It is not for the witness to answer.

Shri Datar: I would submit that so far as kirpans are concerned, a general answer has been given by the witness and it would not be proper to deal only with kirpans.

Shri Bangshi Thakur: May I know whether after the Jallianwalabagh massacre the kirpans were banned? The British were then ruling and...

Shri Datar: It is a forty-year old matter. I would request you, Sir, not

to allow such questions. Now, we are governed by the Constitution.

Shri Bangshi Thakur: If at that time, it was not banned, why should it be done later?

Chairman: The witness cannot answer that question.

Shri N. C. Sekhar: You have said that you are in favour of liberalising the licensing system. The Indian people were completely disarmed under the old system, old Arms Act. Now, our Government seeks to improve the old Act to a certain extent so that our people may be allowed to keep arms under a licence. But your proposals it seems still restrict the scope of licensing, instead of liberalising.

Shri Kashyap: I think in the interest of law and order that much restriction to my mind as is indicated is necessary.

Shri N. C. Sekhar: Do you think that law and order is of interest to the Government servants only and not to the other people of India?

Shri Kashyap: It is of very vital concern to the people of India.

Shri N. C. Sekhar: In that case, what harm will be done by arming our people at the border area for their self-defence and for the defence of the frontiers of the country?

Shri Kashyap: The only submission that I made was to include the word 'public safety' in clause 14(b) (2) to cover the type of cases which may not be covered ordinarily by 'public peace'. Otherwise, I have not suggested further restriction really.

Shri N. C. Sekhar: Public safety—in relation to whom and what?

Shri Kashyap: Supposing a licensing authority has given an arm to a person who is not capable of looking after it or that the arm falls into the hands of some undesirable person who goes and commits 3 or 5 murders, I would cover that under the restriction 'public safety'.

Shri H. N. Mukerjee: In the Punjab, is there a record of a substantial number of cases where people who had licences have passed on their weapons to dacoits, gangsters and other anti-social elements? If there is no such record of a substantial number of cases of abuse of licence by licensees who hold their authority at present, would not you think that the desirability of a fairly wide liberalisation is more or less proved?

Shri Kashyap: I have said that I have got figures with me where licences were used for committing major offences and if I may give those figures you will find that the licenced arms used for the commission of such offences are not really very large. In fact that has been on the decline from 1956 onwards and that is why the State Government decided to liberalise the issue of licences by way of increasing the quota.

Shri N. C. Sekhar: You have said the Sikh people are allowed to bear kirpans on religious grounds. Do you have any objection to allow similar religious and martial people in other parts of India to bear swords, daggers and spears on religious grounds. For instance in Bhagwati Puja, spears are used....

Shri Datar: How can he speak about other provinces? It is for us and to Parliament to consider. It is not for the witnesses as he has no experience of other States. You can ask about Punjab.

Shri N. C. Sekhar: Will the other communities, who are not Sikhs, be allowed to bear such arms in defence of border areas?

Shri Datar: The freedom to bear arms other than firearms is there. The arms are not restricted.

Shri Kashyap: There may be some restriction in times of emergency.

Shri N. C. Sekhar: Why should not people be allowed to bear arms in an emergency?

Shri Kashyap: I think I have already answered that question. Much

Shri Vajpayee: Shri Kashyap has just stated that there is a time schedule in the State of Punjab for issuing licences. May I know the nature of that time schedule.

Shri Kashyap: I do not remember the time-limit at the different stages, but we have tried to fix a time-limit at the stage of investigation by the SHO, at the stage of investigation by the tahsildar, the disposal of the applications by the superintendent and so on.

Chairman: That is executive procedure.

Shri Vajpayee: He feels that there is necessity for such a time-schedule.

Shri Kashyap: But not to the extent of saying that it should find a place in this Bill, for obvious reasons which I stated earlier.

Shri Datar: The executive orders are there.

Shri Achar: The point I was thinking of is not about the time-limit. The point is this. Now, the issuing of licences, the reporting by the police, the hearing of the appeal etc. are all departmental and are in the hands of the executive. Will there be any harm if the appeal is to the district judge or to the judiciary? For, there is a feeling in the country that when the thing is departmental, especially depending on the police, the licences are not properly granted. So, there should be a judicial mind exercised over it, and, therefore, the appellate authority must be the district judge. Do you approve of that proposal?

Shri Kashyap: I have already made the submission that persons who are aggrieved by the orders of the licensing authority or the orders passed against them in appeal have an opportunity to go to the High Court in writ applications.

Shri Achar: But as it is, there is no appeal to the High Court, not even to the district judge. Do you think

there will be any harm if the appeal is allowed to the district judge?

Shri Kashyap: My objection to that will be only this, that the judicial officers as such do not possess up-to-date information, from the day-to-day point of view, which the executive does at different rungs.

Shri Datar: You mean law and order.

Shri Kashyap: That is the only point where we have got to be cautious.

Shri Achar: Do you not think that the reports of the SHO or the circle inspector and so on will be giving those facts to the district judge? Just as the appellate authority now considers all those materials, likewise, the district judge also will be considering all those things. A judicial frame of mind would be better to meet the situation than a district magistrate who is only an executive authority.

Shri Kashyap: My submission is that the executive authority, in view of the special problems of law and order, should be left to decide these things.

Shri Menon: If the appeal lies to the judicial authorities, do you think, as the question of delay has also been raised earlier, that there will be more delay or less delay in the disposal of cases?

Shri Kashyap: I have not had much experience of the judicial authorities, but my own feeling is that there is likely to be delay, and not expeditious disposal.

Shri Datar: Do you not think that the executive authority is competent to dispose of all these matters, and it would not be proper for the judicial authorities to enter into such questions? It would be beyond what is their proper purview.

Shri Kashyap: I have stated so.

Shri Achar: Are you aware of the fact that in England, the appellate

authority is the court of quarter sessions?

Chairman: That is a fact.

Shri Raghbir Sahai: I am entirely at one with you that the licensing authority and the appellate authority should be the executive. But are you satisfied that it is working well? For, before these licences are granted, so many contributions and subscriptions are being demanded from the applicants and they are put to a lot of unnecessary harassment. Do you approve of these things?

Shri Kashyap: I do not know of any such general complaint, but I cannot say that there is not an isolated case here and there. But no such general complaint has come to light with us.

Shri Raghbir Sahai: So far as U.P. is concerned, I may inform you that contributions for so many funds, such as the National Savings Certificate, for the Plan certificates and so on are being demanded from individual applicants by the authorities, before the applications are considered.

Shri Kashyap: I am not aware of the conditions prevailing in U.P. But in Punjab, as I have already stated, there is no such general complaint.

Shri Raghbir Sahai: Do you think that the present system of the licences being ultimately granted by the district magistrate and the appeals lying to the commissioner of the division may be changed this way that the subdivisional magistrate may be the licensing authority and the appeal may lie with the district magistrate or the district Commissioner or district magistrate, to ensure that the minimum time is taken before a licence is granted or refused?

Shri Bibhuti Mishra: What is the time?

Shri Kashyap: I could not tell you offhand, but it is not more than three months, I think.

Chairman: It depends on the executive authority of the State Governments.

Shri Vajpayee: A time-limit should be fixed. That is my point.

Shri Bibhuti Mishra: This Act is being made by the Central Government, and the State Government has to give a time-limit.

Chairman: The point made by the Members is whether it is not desirable to put down any time-limit by which the licence should be granted or refused, whatever it may be, from the time of application.

Shri Kashyap: I have already given my reasons why this authority should vest with the executive because they are the best judges of the situation prevailing in the districts.

Shri Vajpayee: In the Punjab the Sikhs have a right to possess and carry kirpans under the Constitution. I would like to know whether the fact has adversely affected the law and order situation there.

Chairman: I will ascertain whether there is any Member who wants to put a question on clause 18.

Shri H. P. Saksena: I want to put a question. May I know the reaction of the witness to the removal of property condition for the granting of licences?

Shri Kashyap: I have already said that we generally approve of that.

Shri Vajpayee: Under the Constitution the Sikhs in the Punjab have a right to possess and carry kirpans. May I know whether it has adversely affected the law and order situation there?

Shri Kashyap: Not so much. I have got the figures of crime for the last 3 or 4 years. It may be discovered that crime has been definitely on the decrease. I am including the figures for 1957-58 but not for the earlier years for Pepsu.

Shri Vajpayee: If citizens other than the Sikhs are also allowed to keep and carry swords and kirpans, do you think that it will lead to a

worsening of the law and order situation?

Shri Kashyap: As far as I am aware, there has been no demand of this kind. This particular exemption in the case of a small community like the Sikhs is by way of a religious symbol.

Chairman: Under the proposed amendment, others can also use. There is no bar. The question is whether an emergency has arisen under section 15 of the present Act and whether the Sikhs have been prevented at that time from carrying these kirpans.

Shri Kashyap: This is a right given to them under the Constitution.

Shri Datar: After the introduction of the Constitution, has any occasion arisen for the Punjab Government to issue an order banning the use of kirpans by the Sikhs?

Shri Kashyap: Not during my time. But such a thing is possible because of the law and order situation.

Chairman: Only when an order under section 15 is promulgated that there is an emergency. So, the question is whether there was any occasion in any area of the Punjab when the carrying of arms was absolutely banned and whether at that time the kirpan was also excluded.

Representative of the Ministry: Under the present Act this can be done under section 27.

Chairman: Shri Vajpayee's question is whether, in the case of an emergency arising under the proposed section 4, you would like to ban the kirpan also or not.

Shri Kashyap: It depends upon the circumstances prevailing at the time.

Chairman: If this Act is passed tomorrow and section 4 is promulgated in a certain area, would it require the kirpans also to be surrendered unless they are exempted by a further exemption?

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Shri N. C. Sekhar: Why should not people be allowed to bear arms in an emergency?

Shri Kashyap: I think I have already answered that question. Much

will depend upon the circumstances prevailing at that time. Possession of arms may not be restricted but only the exhibition of arms may be restricted.

Shri Raghur Sahai: You were good enough to tell us that the policy of issuing licences so far as border districts are concerned have been liberalised.

Shri Kashyap: So far as all districts are concerned, particularly in border areas.

Shri Raghur Sahai: May I know how far that policy has succeeded in controlling or resisting the attacks by Pakistan? If that policy has succeeded are you not going to liberalise it still more instead of fixing percentages as you have done?

Shri Kashyap: The situation has continuously to be watched from every point of view and we can liberalise if any liberalisation is called for. In the year 1949, we had to screen the licences in operation and we substantially reduced the number of licences to 48,000 or so. As and when the situation improves and we feel the necessity of arming the border people also with a view to creating confidence among them, we do increase the quota and give preferential treatment to the border people, other things being equal. But much will depend upon the circumstances. We have only recently increased the quota of 4 per cent to 8 per cent and we ought to see the reaction before we can go further.

Shri Raghur Sahai: Are you satisfied that the border people to whom you are now giving arms, are protecting those arms all right, or are these arms being taken away by raiders from Pakistan?

Shri Kashyap: No such cases have come to our notice. The possession of an arms licence is considered a precious thing and they are well guarded.

Shri Datar: Mr. Kashyap, your reference to percentages was misunder-

stood by some hon. Members. As I have understood, does it not mean that the percentage was laid down more or less broadly without affecting the cases of individuals where they were legitimately entitled to licences?

Shri Kashyap: Absolutely, Sir.

Shri Raghur Sahai: If the policy of liberalisation of giving arms to border people is not misused, why should we not extend it to other districts as well?

Shri Kashyap: The quota has been increased to all the districts, not only the border districts. For the people living within 20 miles of the border, preferential treatment is being given.

Shri Raghur Sahai: Is liberalisation going on in other districts as well?

Shri Kashyap: Yes, barring one or two districts where there was no necessity of licences, because there was no demand.

Shri Mohammad Tahir: While defining arms, do you think it would be desirable that arms other than fire arms are specifically mentioned in the definition, so that ordinary knives, or razors may not be taken as arms?

Shri H. P. Saksena: May I submit, Mr. Chairman, that it is already there. All arms which are used for domestic purposes, or agricultural purposes are exempted

Shri Kashyap: So, knives will come under the definition something used for domestic purposes.

Shri Narotham Reddy: How many applications for licences for fire arms were rejected?

Shri Kashyap: I cannot tell you off-hand.

Shri Narotham Reddy: At least a broad idea.

Shri Kashyap: Not even that.

Shri Achar: You mentioned that as a policy Government fix a percentage. Is that correct?

Shri Kashyap: Yes, as I have stated before, if in a district, the Deputy Commissioner has issued licences to the extent of the quota available with him, he makes a reference to Government and if the person applying for the licence is entitled to get one—if his is a fit and proper case—Government gives him licence over and above the quota.

Shri Achar: After the percentage is reached, whatever be the merits, licences won't be granted, is it not?

Shri Kashyap: Licences will be granted over and above the quota.

Shri Achar: Then what is the purpose in fixing the percentage?

Shri Kashyap: Just to have an overall control over the number of licences. We go by the crime figures. In 1949 the number of arms licences issued were unduly large and we had to screen the licences with the people and watch the law and order situation. In the year 1956 it was raised from 2 per cent to 4 per cent and only recently, in the last month, we had to raise the quota from 4 to 8 per cent.

Shri Achar: Does the quota differ?

Shri Kashyap: It will have relationship with the total number of arms available in the district.

Shri Raghbir Sahai: You wanted that in clause 14 after "peace" the words "public safety" also should be added. May I invite your attention to clause 9 where under sub-clause (iii) it has been stated:

"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."

This relates to sections 107 and 110 where the word public safety is not being used. Why are you adding another expression which may not be capable of definition?

Shri Kashyap: That only binds a person for a specific period. During that period he will not be entitled to get a licence.

Chairman: He means overall safety of the State.

Shri Bibhuti Mishra: Do you feel that for a muzzle-loading gun, for *bona fide* purposes there should be no licence?

Shri Kashyap: The check in the present Bill should remain; muzzle-loading gun can also be dangerous. It is just as well that you should have licence for it.

Shri Bibhuti Mishra: How do you think proper that they would be useful for protecting crops?

Shri Kashyap: The procedure for giving licence for crop protection is very much simpler. We are thinking of liberalising it still further. A subdivisional officer has to cater to wide areas and it is not possible for the police to scrutinise applications. We are therefore considering that such licences should issue at the instance of the forest officer or other officers going to the interior. These are verified at a later date and undesirable elements screened out.

Chairman: Do you think that for *bona fide* crop protection, the muzzle loading gun is sufficient or do you think that for such protection, in some cases a smooth bore gun may be necessary? In the case of muzzle loading gun, after you have fired once, it takes at least 10 minutes to load it again. But in a jungle area, there may be wild animals which you cannot hit in the first instance and you must have a second chance. You can do so with smooth bore guns. We are practically liberalising the licence for smooth bore gun in the case of everybody. Why should it be restricted in the case of agriculturists for the purpose of *bona fide* crop protection?

Shri Kashyap: For crop protection, it is enough if you make a big noise; it is not essential to kill the animal.

Chairman: Why not? What about wild boars? I know in West Bengal in order to save the paddy crop from wild boars, you have to shoot at them and kill them.

Shri C. P. S. Menon: There are two kinds of licences in this connection. One is for the destruction of wild animals and the other is for crop protection. Both these licences can be given not only for muzzle loading guns but for other rifles also under clause 13. If the agriculturist wants a shot gun, he is not prevented from having it. He has only to show that a muzzle loading gun is not enough.

Chairman: There is a distinction made in the language of the clause itself. The general impression will be that for the purpose of crop protection, under clause, you are entitled to a muzzle loading only, whereas smooth bore guns are not prohibited to ordinary people unless he is a bad character. Why are you making this distinction in the language itself?

Shri C. P. S. Menon: If the agriculturist wants a shot gun, he has only to satisfy the licensing authority under sub-clause (b) and he will have a shot gun.

Shri Datar: The emphasis is on the words "shall grant". They have facilitated the grant of licences in such cases. It does not take away the right in other cases.

Chairman: When you make the language of the clause remain like this, the magistrate will think that if one wants a gun for crop protection, under clause 13, he is entitled to a muzzle loading gun only generally.

Ch. Ranbir Singh: I support your interpretation.

Shri Datar: I understand it; I shall have it examined. It does not mean that they will not have smooth bore guns for crop protection.

I want to ask one question regarding air rifle. Clause 13 (3) (a) (ii) says:

"in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government."

We took the evidence of all-India rifle association secretaries and they stated that the air rifle should be exempted for purposes of licence. What is your view?

Shri Kashyap: I do not agree there. I think there should be a licence.

Ch. Ranbir Singh: Mr. Chairman, I am in agreement with your interpretation of clause 13(3) (a) (i). The officers will feel that the agriculturist can only have a muzzle loading gun and not the smooth bore gun. There should be no discrimination between agriculturists and non-agriculturists. That is my view. Smooth bore guns can be more useful than muzzle loading guns in the case of wild animals.

Shri Fatesinh Ghodasar: Is it a fact that muzzle loading gun is quite useless in monsoon, because the powder gets wet and so it cannot be fired in monsoon? The agriculturist requires the gun mainly during the monsoon season.

Shri Kashyap: There is provision in the Bill for getting the other gun also by satisfying the licensing authority under sub-clause (b).

Ch. Ranbir Singh: That means we are creating a discrimination between agriculturists and non-agriculturists. A non-agriculturist has the right to get a smooth bore gun while an agriculturist does not have that right. An agriculturist is as good a citizen as anybody else. I do not know why you feel there is something dangerous in the use of this as far as an agriculturist is concerned and so he should not be treated on par with the other citizens. Do you feel that there is any harm if the agriculturist also gets a licence for a smooth bore gun?

श्री विभूति मिश्र : वह कहते हैं कि मजिल लोडिंग गन का पाउडर बरसात में ठंडा पड़ जाता है और वह बन्दूक काम नहीं देती । ऐसी हालत में आप उनको दूसरी तरह की बन्दूक क्यों नहीं देते ?

Shri Kashyap: There is already a provision for the agriculturist to get a

smooth-bore gun by satisfying the licensing authority as to the necessity, as is the case with anybody else.

Ch. Ranbir Singh: If you read clause 13(3)(a)(i) you will find that whereas a non-agriculturist can get a smooth bore gun under (3)(a)(i), an agriculturist will not be able to get it if the clause is kept as it is.

Shri Kashyap: I do not think that is a correct interpretation. Both the agriculturist and the non-agriculturist can get licences by satisfying the licensing authority.

Chairman: But if you change the language and use the words "muzzle loading gun or smooth bore gun" there cannot be any objection. Now it looks as if the agriculturists are discriminated against, so far as smooth bore guns are concerned, because we have put them in a separate clause.

Shri Fatehsinh Ghodasar: Is it not a fact that the agriculturists will be able to protect their crop better with a smooth bore gun than with a muzzle loading gun?

Shri C. P. S. Menon: An agriculturist can always get a smooth bore gun by satisfying the licensing authority whether he needs it or not.

Chairman: We are going too far in liberalising the grant of licences that even a vagabond can get a licence. But in this case a man has got a land and he has to protect his crop. That should be a sufficient reason for his being entitled to a smooth bore gun. If you accept that position the wording may be changed.

Shri C. P. S. Menon: Even in the UK Firearms Act they have provided that the licensing authority should be satisfied that the applicant has a good reason for obtaining a gun. What is a good reason it is for the licensing authority to decide.

Ch. Ranbir Singh: I feel that crop protection is an additional reason, as far as agriculturists are concerned. As far as other things are concerned, they have as good a reason as any-

body else. It is very wrong to make a distinction.

Shri C. P. S. Menon: An agriculturist is also a citizen. He can get it for his own protection. One is for crop protection and the other is for personal protection.

Chairman: Suppose a muzzle loading gun is not sufficient for crop protection? What is the harm in agriculturists using smooth bore guns?

Ch. Ranbir Singh: Suppose I am an agriculturist. I get a smooth bore gun for my protection. I use it in the field for crop protection. Will it be illegal for me to do so? What is the interpretation? Should I get a separate licence for killing a deer, because this is meant for self-protection?

Shri Datar: The licensing authority shall grant certain types of weapons. Certain purposes have also been mentioned there. Is it the objection or contention that because of the usage of the term "any other case", for crop protection or self protection other weapons cannot be used? Is that the fear? Here for protection or sport certain arms have been allowed. Clubs have also been allowed certain weapons. Is it the fear that because of the expression "any other case" for protection or crop protection other weapons will not be allowed?

Chairman: That is not it. The licensing authority has got to be satisfied. There is the fear that it is very difficult to get a licence under sub-clause (b).

Shri Datar: The question of satisfaction has not been added to sub-clause (a).

Shri Sen Verma: Under (a) it is obligatory.

Shri Datar: Under sub-clause (b) in all cases the licensing authority must be satisfied.

Shri C. P. S. Menon: The crop protection licences are free of fee, whereas for shot guns and others licence fee is charged.

Shri C. P. S. Menon: There are two kinds of licences in this connection. One is for the destruction of wild animals and the other is for crop protection. Both these licences can be given not only for muzzle loading guns but for other rifles also under clause 13. If the agriculturist wants a shot gun, he is not prevented from having it. He has only to show that a muzzle loading gun is not enough.

Chairman: There is a distinction made in the language of the clause itself. The general impression will be that for the purpose of crop protection, under clause, you are entitled to a muzzle loading only, whereas smooth bore guns are not prohibited to ordinary people unless he is a bad character. Why are you making this distinction in the language itself?

Shri C. P. S. Menon: If the agriculturist wants a shot gun, he has only to satisfy the licensing authority under sub-clause (b) and he will have a shot gun.

Shri Datar: The emphasis is on the words "shall grant". They have facilitated the grant of licences in such cases. It does not take away the right in other cases.

Chairman: When you make the language of the clause remain like this, the magistrate will think that if one wants a gun for crop protection, under clause 13, he is entitled to a muzzle loading gun only generally.

Ch. Ranbir Singh: I support your interpretation.

Shri Datar: I understand it; I shall have it examined. It does not mean that they will not have smooth bore guns for crop protection.

I want to ask one question regarding air rifle. Clause 13 (3) (a) (ii) says:

"in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government."

We took the evidence of all-India rifle association secretaries and they stated that the air rifle should be exempted for purposes of licence. What is your view?

Shri Kashyap: I do not agree there. I think there should be a licence.

Ch. Ranbir Singh: Mr. Chairman, I am in agreement with your interpretation of clause 13(3) (a) (i). The officers will feel that the agriculturist can only have a muzzle loading gun and not the smooth bore gun. There should be no discrimination between agriculturists and non-agriculturists. That is my view. Smooth bore guns can be more useful than muzzle loading guns in the case of wild animals.

Shri Fatesinh Ghodasar: Is it a fact that muzzle loading gun is quite useless in monsoon, because the powder gets wet and so it cannot be fired in monsoon? The agriculturist requires the gun mainly during the monsoon season.

Shri Kashyap: There is provision in the Bill for getting the other gun also by satisfying the licensing authority under sub-clause (b).

Ch. Ranbir Singh: That means we are creating a discrimination between agriculturists and non-agriculturists. A non-agriculturist has the right to get a smooth bore gun while an agriculturist does not have that right. An agriculturist is as good a citizen as anybody else. I do not know why you feel there is something dangerous in the use of this as far as an agriculturist is concerned and so he should not be treated on par with the other citizens. Do you feel that there is any harm if the agriculturist also gets a licence for a smooth bore gun?

श्री विभूति मिश्र : वह कहते हैं कि मजिल लोडिंग गन का पाउडर बरसात में ठंडा पड़ जाता है और वह बन्दूक काम नहीं देती । ऐसी हालत में आप उनको दूसरी तरह की बन्दूक क्यों नहीं देते ?

Shri Kashyap: There is already a provision for the agriculturist to get a

smooth-bore gun by satisfying the licensing authority as to the necessity, as is the case with anybody else.

Ch. Ranbir Singh: If you read clause 13(3)(a)(i) you will find that whereas a non-agriculturist can get a smooth bore gun under (3)(a)(i), an agriculturist will not be able to get it if the clause is kept as it is.

Shri Kashyap: I do not think that is a correct interpretation. Both the agriculturist and the non-agriculturist can get licences by satisfying the licensing authority.

Chairman: But if you change the language and use the words "muzzle loading gun or smooth bore gun" there cannot be any objection. Now it looks as if the agriculturists are discriminated against, so far as smooth bore guns are concerned, because we have put them in a separate clause.

Shri Fatehsinh Ghodasar: Is it not a fact that the agriculturists will be able to protect their crop better with a smooth bore gun than with a muzzle loading gun?

Shri C. P. S. Menon: An agriculturist can always get a smooth bore gun by satisfying the licensing authority whether he needs it or not.

Chairman: We are going too far in liberalising the grant of licences that even a vagabond can get a licence. But in this case a man has got a land and he has to protect his crop. That should be a sufficient reason for his being entitled to a smooth bore gun. If you accept that position the wording may be changed.

Shri C. P. S. Menon: Even in the UK Firearms Act they have provided that the licensing authority should be satisfied that the applicant has a good reason for obtaining a gun. What is a good reason it is for the licensing authority to decide.

Ch. Ranbir Singh: I feel that crop protection is an additional reason, as far as agriculturists are concerned. As far as other things are concerned, they have as good a reason as any-

body else. It is very wrong to make a distinction.

Shri C. P. S. Menon: An agriculturist is also a citizen. He can get it for his own protection. One is for crop protection and the other is for personal protection.

Chairman: Suppose a muzzle loading gun is not sufficient for crop protection? What is the harm in agriculturists using smooth bore guns?

Ch. Ranbir Singh: Suppose I am an agriculturist. I get a smooth bore gun for my protection. I use it in the field for crop protection. Will it be illegal for me to do so? What is the interpretation? Should I get a separate licence for killing a deer, because this is meant for self-protection?

Shri Datar: The licensing authority shall grant certain types of weapons. Certain purposes have also been mentioned there. Is it the objection or contention that because of the usage of the term "any other case", for crop protection or self protection other weapons cannot be used? Is that the fear? Here for protection or sport certain arms have been allowed. Clubs have also been allowed certain weapons. Is it the fear that because of the expression "any other case" for protection or crop protection other weapons will not be allowed?

Chairman: That is not it. The licensing authority has got to be satisfied. There is the fear that it is very difficult to get a licence under sub-clause (b).

Shri Datar: The question of satisfaction has not been added to sub-clause (a).

Shri Sen Verma: Under (a) it is obligatory.

Shri Datar: Under sub-clause (b) in all cases the licensing authority must be satisfied.

Shri C. P. S. Menon: The crop protection licences are free of fee, whereas for shot guns and others licence fee is charged.

Ch. Ranbir Singh: My apprehension is this. Suppose I apply for a licence for a smooth bore gun. An administrator may say that I need it only for crop protection and may grant me only a licence for a muzzle loading gun.

Shri C. P. S. Mehon: An agriculturist can also apply for a smooth bore gun as he is also a citizen.

Ch. Ranbir Singh: That is why I say that the drafting is faulty. An agriculturist requires it for crop protection. But he is not granted it. So, while serving the country he is being punished. He is not treated like any other citizen.

Shri Datar: How is he punished?

Ch. Ranbir Singh: He is not given a licence for a smooth bore gun.

Shri Datar: For that all that he is required to do is to satisfy the licensing authority.

Ch. Ranbir Singh: While in the case of others you do not refuse a licence, you refuse it in the case of agriculturists.

Chairman: Under Clause 13(3) you have provided that the licensing authority shall grant (a) a licence under section 3 where the licence is required—(i) by a citizen of India in respect of a 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 to be used for *bona fide* crop protection, or

Here you are making a distinction or differentiation between the muzzle loading gun and the smooth bore gun. This liberalisation has been made so far as crop protection is concerned. The licensing authority may think that a differentiation is made between muzzle loading gun and smooth bore gun for crop protection and self-protection. I feel that you should change the wording here.

Shri Datar: Your approach, Mr. Chairman, is entirely different from this.

Chairman: Under Clause 4 you are liberalising the provision for the acquisition, possession or carrying of arms other than firearms, unless the Central Government feels that such possession should be regulated in view of the circumstances prevailing in any area and if it is necessary or expedient to regulate it. You have also provided that if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same, they can grant the licence. Every person is entitled to that. I agree there. My apprehension is when he is entitled to that, why do you make this distinction in language under Clause 13(3)(a)(i) because it may be interpreted this way that the liberalisation the legislature has made

Shri Datar: in the interest of crop protection and self-protection.

Chairman: under Clause 13(3)(a) is so far as crop protection is concerned. Then there may be this objection that the muzzle loading gun will not serve one's purpose in a certain area and why should he not have smooth bore gun for crop protection also.

Shri Kashyap: In the case of muzzle loading gun, the procedure is very much simpler. For other guns you have to satisfy the licensing authority.

Shri Datar: That is the correct position.

Chairman: At the present moment, you are making the smooth bore gun also outside the scope of satisfaction.

Ch. Ranbir Singh: Is it not a fact that as regards the law and order condition is concerned, as regards the safety of the people is concerned, that is guaranteed by the State Police? In cities the Police protection is available at short notice; but in rural areas it is quite contrary. It is those villagers who need licences for protection more than the city people. I would like to know whether 22 bore rifle should be treated at par with smooth bore gun as regards agricul-

tourists are concerned. It is the additional ground that the agriculturists need smooth bore guns not only for protection but for the interest of the country. That is why I say the drafting is faulty.

श्री विभूति मिश्र: चेंबरमेन साहब, असल में दिक्कत तो यह है कि न तो हमारे होम सेक्रेटरी साहब को और न हमारे होम डिपार्टमेंट के मिनिस्टर साहब को जंगल की कठिनाइयों का सामना करना पड़ता है। जिन लोगों को घने जंगल में आठ दस मील अन्दर जाकर भी खेती करनी पड़ती है उनको चिड़िया से लेकर बाघ तक का सामना करना पड़ता है। उन लोगों को तो खेती की रखवाली के लिए राइफल तक देनी चाहिये। इसलिए मैं चाहता हूँ कि दातार साहब इसकी भाषा को दुरुस्त कर दें नहीं तो इससे किसान बहुत घाटे में रहेंगे।

Those who are residing in thick forests do need these rifles. They are to protect the crops as well as themselves from wild animals.

श्री चोवररी रणवीर सिंह: अगर और लोगों को स्मूथ बोर गन की जरूरत है तो एग्रीकल्चरिस्ट को तो राइफल की आवश्यकता है।

Shri Bibhuti Mishra: The city people do not require guns....

Shri Fatehsinh Ghodasar: As I said earlier, muzzle loading guns are useless even for crop protection. The agriculturists should be given smooth bore guns.

Chairman: We will argue this point among ourselves. If you want to put questions to the witness, you can do so. The Secretary is not under fire here. I have myself said earlier that here is a man who has got a land and he has to protect his crop. That should be a sufficient reason for his being entitled to a smooth bore gun. If you accept that position, then the wording in this clause has to be changed.

Shri Fatesinh Ghodasar: I want to ask this question—why does he think

that there should be licence for even a air-rifle; is it more dangerous than a bow and arrow or muzzle loading gun.

Chairman: I think the witness has replied that, on a former occasion when the same question was put, he thinks that there should be licence for that also. There is difference between rifles and rifles. I don't think he is an expert witness.

Shri Fatehsinh Ghodasar: B.A.S. Air Rifle was not available in India.

Shri Datar: We might discuss this question afterwards.

श्री भक्त दर्शन: मैं यह पूछना चाहता हूँ कि बीसवीं सदी में भी, जब कि हमारे देश में अच्छी से अक्खी बन्दूकें बनने लगी हैं, क्या यह जरूरी है कि इस बिल में मजल लोडिंग गन के बारे में व्यवस्था रखी जाये।

श्री कश्यप: मजल-लोडिंग गन एग्रीकल्चरिस्ट्स को क्राप-प्रोटेक्शन के लिये चाहिये। उसका होना जरूरी है। उन लोगों की डिमांड यह है कि मजल-लोडिंग गन का लाइसेंस हमको दिया जाये। वह गन उन लोगों को बगैर ज्यादा दिक्कत के मिल जाती है।

श्री चोवररी रणवीर सिंह: अगर मजल-लोडिंग गन को लाइसेंस की श्रेणी से निकाल दिया जाये, तो क्या नुकसान है? तलवार बगैर लाइसेंस के मिलती है। अगर मजल-लोडिंग गन भी उसी तरह दी जाये, तो क्या नुकसान है?

श्री कश्यप: मेरे ह्याल से मजल-लोडिंग गन एक हद तक तलावर की निस्बत ज्यादा डेंजरस है।

श्री भक्त दर्शन: ऐसे भी बहुत से गांव हैं, जो कि घने जंगलों के नजदीक हैं। वहां हिरनों के अतिरिक्त शेर भी पाये जाते हैं। क्या वहां मजल-लोडिंग गन से काम चल सकता है?

श्री कश्यप : इस बिल में प्राविजन है कि एग्रीकल्चरिस्ट दूसरी गन का लाइसेन्स भी ले सकता है ।

चौ० रणवीर सिंह : आपने यह ब्यु ज़ाहिर किया है कि ३(ए) (१) के तहत एग्रीकल्चरिस्ट को मज़ल-लोडिंग गन का लाइसेन्स दिया जाये और (बी) के तहत किसी और लाइसेन्स के लिये उसको लाइसेंसिंग अथारिटी को सैटिसफ़ाई करना पड़े । मैं यह जानना चाहता हूँ कि क्या पंजाब सरकार की—कैबिनेट की—भी राय यही है कि किसान को सिर्फ़ मज़ल-लोडिंग गन मिले और दूसरे केस के लिये (बी) के तहत उसको लाइसेंसिंग अथारिटी को सैटिसफ़ाई करना पड़े ? अगर आपको पंजाब सरकार की राय के बारे में पता नहीं है, तो कोई बात नहीं है ।

Chairman: What about two licences—one for muzzle loading and one for the other type?

Shri Kashyap: Free of fee: he has to pay only for one.

Chairman: Well, Ch. Ranbir Singh is asking for an opinion.

Ch. Ranbir Singh: No, Sir. I am asking a fact.

चौ० रणवीर सिंह : मैं तो यह जानना चाहता हूँ कि क्या पंजाब मिनिस्ट्री की राय में किसान को सिर्फ़ मज़ल-लोडिंग गन ही मिलनी चाहिये, या उसको दूसरी गन भी मिल सकती है ।

श्री कश्यप : जहाँ तक ला के प्राविजन का ताल्लुक है, मैं पहले अज़र कर चुका हूँ कि इस क्लज़ के नीचे दूसरी गन भी मिल सकती है । एग्रीकल्चरिस्ट को न नहीं है । सिर्फ़ प्रोसीड्योर अलग रखा गया है । मज़ल-लोडिंग गन के बारे में प्रोसीड्योर बहुत सिम्पल रखा गया है । दूसरे केस में लाइसेंसिंग अथारिटी की सैटिसफ़ैक़शन रखी गई है ।

चौ० रणवीर सिंह : क्या पंजाब सरकार की यह राय है कि किसान की फ़सल की प्रोटेक्शन के लिये सिर्फ़ मज़ल-लोडिंग गन ही काफी है ? मुझे इसका जवाब नहीं दिया गया है ।

श्री कश्यप : इस पर विचार नहीं हुआ ।

चौ० रणवीर सिंह : मि० चेरमैन, इसको नोट कर लिया जाये । वह कह रहे हैं कि यह विचार नहीं है ।

श्री कश्यप : नहीं, इन्होंने सवाल किया था कि क्या पंजाब सरकार ने विचार किया है कि एग्रीकल्चरिस्ट्स को महज़ मज़ल-लोडिंग गन दी जाये, दूसरी न दी जाये । मैंने यह कहा है कि इस खास मामले पर पंजाब गवर्नमेंट ने खास विचार अभी नहीं किया ।

चौ० रणवीर सिंह : उन्होंने इसके खिलाफ़ राय ज़ाहिर नहीं की ।

Chairman: There are some Members who do not understand Hindi and therefore a duty is cast on me to put in English what had taken place in Hindi. A question was put by Ch. Ranbir Singh to Shri Kashyap whether in the opinion of the Punjab Government only muzzle loading guns should be given for the purpose of crop protection. The Home Secretary, Shri Kashyap, replied that this case has not come up to him specifically.

श्री भक्त दर्शन : हमारे चौधरी साहब प्रश्न कम करते थे । आज कौनसा कारण है कि इतने अधिक प्रश्न पूछ रहे हैं ?

सभापति महोदय : पंजाब का मामला है न । चौधरी साहब पंजाब के लीडर हैं ।

Shri Datar: Ordinarily, will not muzzle loading guns be sufficient for crop protection?

Shri Kashyap: I have stated earlier that is all that is required for crop protection. Something should be done

to create a big noise and muzzle loading guns produce that notice to scare the cattle away.

Shri Datar: Can you say that ordinarily that is sufficient for protection?

Shri Kashyap: Yes; sufficient for protection.

Shrimati Alva: He said that muzzle loading guns do not fire in the moon-
soon.

Shri Kashyap: It is not within my knowledge.

Shri Fatehsinh Ghodasar: Will the Home Secretary please tell us whether any agriculturist will be able to protect his crop by the muzzle loading guns or with the smooth bore guns?

Chairman: Will they be able to protect the crop with the muzzle loading guns or with smooth bore guns?

Shri Kashyap: I think they can secure better killing with smooth bore guns than with the muzzle loading guns.

Chairman: There is another point that arises. Supposing the agriculturist goes to his field at 9 o'clock in the night in the wet season. Somehow or other the powder gets wet when he wants to shoot a boar. How can he protect himself with a muzzle loading gun, especially when he cannot fill up the gun quickly for another shot? He cannot kill a boar with the muzzle loading gun. About making a sound, I agree it is all right.

Shri Fatehsinh Ghodasar: The muzzle loading gun is worse than useless for such things. A smooth bore gun is better.

चौ० रणवीर सिंह : मैं यह जानना चाहता हूँ कि क्या मजल-लोडिंग गन . . .

Chairman: We have had enough discussion about the muzzle loading guns and agriculturists.

Shri Kedarla: Suppose some agriculturists cultivate their lands in two districts—the agricultural lands lying

in two districts—is it necessary for crop protection that they should have two licences for each district?

Chairman: That is again a question of interpretation of the clause.

Shri Datar: It has no territorial limit.

Shri Onkar Nath: About clause 13(3)(b), I would like to know the reaction of the Home Secretary to the Government of Punjab. The average Indian is not allowed to keep arms unless he has given the reason to keep it. Suppose a change is made like this, that the average Indian is allowed to keep arms unless he is debarred by reason of unsound mind, or a minor or for some such reason such as conviction for an offence, etc., from getting a licence. It all depends upon the approach. The basic approach of the Act itself is that nobody is allowed to keep arms unless he has reason to keep them. Why cannot we say that everybody is allowed to keep arms for themselves unless there is a reason to the contrary or they are debarred? What would be the reaction of the Home Secretary to such a proposal? I do want that licence should be obtained. It is not that I do not want one. But what about the change I suggested?

Shri Datar: In respect of certain types of firearms which are not covered by (a) there will have to be the satisfaction of the licensing authority.

Shri Onkar Nath: I refer to the cases where the licence is sought neither for agricultural purposes nor for sport. Sub-clause (b) does not relate to any other arm. It is the same arm.

Shri Datar: “. . . licence under section 3 in any other case”.

Shri Onkar Nath: It is the case of an applicant for a licence or is it a case for a different arm?

Shri Datar: It may be for non-agriculture or it may be also any other firearm.

Shri Onkar Nath: The case mentioned here relates to certain types of arms and types of persons. Sub-clause (b) is not clear whether it relates to certain types of persons, who are agriculturists or to arms or to both.

Shri Datar: Both.

Shri Onkar Nath: It can be given to everybody.

Chairman: Unless it is restricted by clause 14, otherwise everybody is entitled.

Shri Onkar Nath: The officer has to certify.

Shri Datar: It is in the English Act

Shri Kashyap: The burden of proof should be on the petitioner.

Shri Onkar Nath: Not being an Indian, he has to prove his special necessity.

Chairman: Clause (b) covers all that.

Shri Datar: We shall discuss that question later.

Chairman: The hon. Home Minister wants to say something.

Shri Datar: The witness has stated that there is considerable liberalisation in this Bill, and that he has generally agreed to the liberalisation. I want to know from him what would be the reaction in the border areas if the present Bill becomes law. Do you think whether this liberalisation will have any adverse effect on the border situation?

Ch. Ranbir Singh: Or, favourable effect.

Shri Datar: Yes.

Shri Kashyap: So far as the border areas are concerned, this liberalisation has had a good effect in the sense that people have more confidence

Shri Datar: And have become self-reliant.

Shri Kashyap: Yes.

Shri Datar: So far as the other aspect is concerned, I wish to say something. You may accept this proposition or you may not accept. If, for example, there is a large number of arms in use in the border areas, will these arms go into anti-social hands or will they be smuggled out?

Shri Kashyap: From the evidence available so far, no case has come to the notice of the Government where these arms have fallen into the hands of the foreign agent or smuggled out.

Chairman: I desire to thank you on behalf of the Committee.

(The Witness then withdrew.)

II. Shri Bolakaranda M. Cariappa,
New Delhi,

(Witness was called in and he took his seat.)

Chairman: Shri B. M. Cariappa is specially conversant with some of the aspects of this Arms Bill. He has also submitted a Memorandum which I hope, hon. Members have seen.

Shri Har Prasad Saksena: Will you kindly ask the witness to explain what he means when he says as follows: 'It is, therefore, prayed that at least the *status quo* in the Arms Act or Rules may please be maintained by Government as far as the people of Coorg are concerned'. What does he mean by '*status quo*'?

Chairman: Also, you have mentioned certain ceremonies where the firing of guns is a custom.

Shri B. M. Cariappa: Yes.

Chairman: As you know, under the present Bill, we are practically liberalising the provisions relating to possession of fire arms. What difficulty is there about the performance of ceremonies or marriages? What right, do you think, is being taken away by the provisions of this Bill? Will you please explain this in more detail?

Shri Datar: Where are these rights being taken away?

Chairman: Yes. Will you please explain the present position after Coorg has been merged in Mysore State? You may tell us whether the same customs and some privileges continue or whether there has been any change. Are you conversant with all that?

Shri Cariappa: I am fairly well-conversant with these things. As far as Jamma Coorg is concerned, after Coorg came within Mysore State, there has been no attempt to take away the present rights of the people.

Chairman: So, there has been no attempt

Shri Cariappa: I may explain what Jamma Coorgi means. A Jamma Coorgi is not necessarily a Coorg man. Jamma Coorgi is a non-Coorgi also. We have got a class called *dhobies* who talk Coorgi language and also there is another class called *Pigros* who talk Coorgi language and put on a Coorgi uniform. They are also entitled to hold guns.

Chairman: This Jamma Coorgi, is it a caste or community?

Shri Cariappa: It is based on land-tenure; the sons of the soil. A Jamma ryot is generally a small land-holder. There are big land holders also, but the majority of them are small land-holders, who cultivate the land, till the land and harvest the land themselves.

Shri Datar: Roughly, a land-holder.

Shri Cariappa: No, Sir. He not merely holds the land, but he owns it. He cultivates the land himself and owns it too. He cannot sell his land.

Shri Ahmad Said Khan: They are peasant proprietors.

Shri Cariappa: Yes. They have no right to alienate the land. He cannot sell his land unless sanction is given by the local government.

Shri Datar: I should like to have some clarification. The former State of Coorg, or the present district of Coorg in Mysore consists of different types of residents including Jamma Coorgi. So, of the other types of classes of people, only Jamma Coorgi had this right. Others had not this right even in Coorg.

Shri Caraippa: Jamma Coorgi also includes non-Coorgi. That I must make clear.

Chairman: Supposing another person who is not a Jamma Coorgi also owns property within the district of Coorg to the same extent and having the same rights, is he also entitled to this exemption?

Shri Cariappa: No, unless he is a Jamma land-holder, the son of the soil.

Chairman: Then, how can we distinguish.

Shri Datar: In other words, it has reference to Jamma tenure and not to a particular community.

Shri Cariappa: Yes, Sir.

Shri Datar: On the ground of custom, or by land also.

Shri Cariappa: It is more on the ground of custom. As I have explained in my Memorandum, the custom is there when a boy is born and it goes on until the man dies. It is more of a sentiment, it is more of a religious association with the people of Coorg that they hold guns freely, but never use them freely.

Shri Datar: Roughly, the population of Coorg was about 2,20,000. Out of this, how many are Jamma Coorgi?

Shri Cariappa: About 70,000. They include men, women and children also. But the right of possessing a gun is given only to the men who are above 18 years of age. There is a ceremony at that time and they are given a ceremonial dress and all that.

Shri Datar: Amongst 70,000 people, only those who are males and who

are above 18 years are entitled to possess a gun. Under the Arms Rules, Schedule I, page 31, you will find :

"4. Every person of Coorg race and every Jamma tenure holder in Coorg, who by his tenure, is liable to perform military or police duties."

These are all entitled to exemption.

Shri Cariappa: I may explain that point. Upto the time we got Independence, there was a class of people serving with the Government called the *chowkidars*.

Shri Datar: By Independence, you mean 1947?

Shri Cariappa: Until 1947 they were Government employees. They were given Coorg uniforms. They were non-Coorgies also. Probably that class refers to that.

Shri Datar: These are the rules framed in 1951. You will find that in addition to Coorgies, Jamma tenure holders of Coorg are entitled to a similar exemption. Do you accept this position? This is under the law.

Shri Cariappa: I cannot deny that.

Shri Datar: This is what it says, every person of Coorg race. He may be a non-Jamma also. Therefore, the classification of exemption is wider.

Shri Cariappa: Probably it is so. I can mention one thing. There is no Coorg man who is not a Jamma-tenure holder. Every Coorgi is a Jamma-tenure holder, it may be one acre of land or it may be half an acre of land.

Shri C. P. S. Menon: A son may not be a Jamma-tenure holder—he will be sharing his father's property.

Shri Cariappa: He will be entitled to possess a gun only when he is 18 years old.

Chairman: Does the custom still obtain that anyone who is holding a Jamma-tenure has to render any police or military duty?

Shri Cariappa: Not at present.

Chairman: Then, how is this? I have my doubt.

Shri Datar: These are the latest rules.

Shri Cariappa: Probably, people were not consulted. That practice does not exist.

Thakur Shri Fatehsinhji Ghodasar: In view of the fact that exemption from possessing certain arms has been given to Coorg people, I want to know whether it has adversely affected the situation in Coorg.

Chairman: Is it a fact that this sort of privilege, possessing guns without licence, has in any way prejudiced the law and order situation?

Shri Cariappa: Absolutely not. As I have stated in my Memorandum, there has not been any single case of violence by the use of firearms in Coorg, as far as my knowledge goes.

Thakur Shri Fatehsinhji Ghodasar: May I know if that privilege is given to other people all over India . . .

Shri Datar: It is for you and me to decide.

Shri Cariappa: The possession of a gun gives the individual a certain sense of responsibility and self-respect and I can be quite sure that nobody having a gun with a sense of responsibility will abuse his right.

Shri Datar: So far as the custom is concerned, generally you use arms other than firearms except in one case, according to your Memorandum, guns have to be fired.

Shri Cariappa: No, Sir. We have to use guns when a boy is born and also at other ceremonies.

Shri Datar: You will find, the weapons are either a sword or a sickle, or some other arm.

Shri Cariappa: The cutting of the harvest harmonises with the shooting of a gun.

Shri K. R. Achar: Even at the marriage ceremony, a gun is fired.

Shri Datar: So, gun is necessary.

Shri Cariappa: Yes, Sir. Firearms are quite necessary.

Shri Mohammad Tahir: Gun is necessary. Is there any harm if that gun should be a licensed gun?

Shri Cariappa: It is only a case of sentiment of the people. If the right of possessing a gun is taken and the people are asked to apply for a licence that will give them a psychological shock.

Shri Bibhuti Mishra: There are so many rights which the Government has taken away. Even the princes have gone. Why do you think that these people exclusively should have such a right?

Shri Cariappa: A Jamma-Coorg is not a prince. He is only a landholder.

Shri Datar: Do you agree that this privilege was granted by the British after they conquered or entered into Coorg?

Shri Cariappa: No, Sir. We had this privilege even when Raja Linga was ruling Coorg. My grand-father had a present from the late Raja of Coorg and that was a gun.

Shri Datar: Do you agree that by a notification on 26th July, 1861, this right was conferred on the Coorgies by the British Administration?

Shri Cariappa: I do not agree with that. It existed before. It might have been continued or confirmed. It was not a reward for loyalty.

Shri Datar: What was done was that the provisions of the Act, called the 'disarming Act' were not made applicable to the gallant people of Coorg . . .

Shri Cariappa: It was not for loyalty. Our people fought the Britishers, but ultimately they were

overwhelmed. We were only about 20,000 people.

Shri Datar: And you lost?

Shri Cariappa: We were overwhelmed. The whole of India was lost.

Shri Datar: I am reading from the relevant notification. notified on 26th July 1861:

"In consideration of the exalted honour, loyalty and intrepidity characteristic of this little nation of warriors, and in recollection of its conspicuous services in aid of the British Government, it is my pleasing duty to notify hereby for general information in virtue of that power vested in me by the Government of India that the provisions of the Act, commonly called the 'disarming Act', are not applicable to the gallant people of Coorg".

Shri Cariappa: We had that before. There may be a handful of people who sided with the British Government.

Shri Datar: You can ask them under the present conditions, not on account of any custom.

Shri Cariappa: Our main thing is custom and it is left to the Government and to the Parliament.

Shri C. P. S. Menon: Ayudha Puja is common to all the communities in India. The Brahmins worship the books, the carpenters worship the tools, the warriors worship the swords or guns. In your case you are lucky because this privilege of yours was allowed to continue—the privilege which you had earlier—in appreciation of your services.

Shri Cariappa: It is more a question of interpretation than the real position.

Shri C. P. S. Menon: Would you like to continue to enjoy such special privileges marking out as distinct from others in India, while others have no such privileges?

Shri Cariappa: I do not wish that others should not be given this privilege. On the other hand, I would request you to extend this privilege to all the people.

Shri Datar: You are not now rendering any police or military service.

Shri Cariappa: We have not rendered that even before.

Shri Datar: Then on what ground you claim this privilege which you received in token of good services.

Shri Cariappa: On grounds of social and religious customs.

Shri Datar: So far as your custom is concerned, I take it that you have read this Bill.

Shri Cariappa: I have not read it.

Shri Datar: You should have read it. Then probably your memorandum would have been shortened.

Shri Cariappa: Probably I would have to add something more. I shall read the Bill.

Shri Datar: So far as the present Bill is concerned, it contains liberalising provisions in respect of arms, other than firearms, for which no licence will be required by any Indian.....

Shri Cariappa: There is no other arm except firearms.

Shri Datar: Are there no other arms? Is not dagger an arm?

Shri Cariappa: Yes. We possess daggers.

Shri Datar: Do not make wild statement. You are a responsible officer.

Shri Cariappa: I am sorry.

Shri Datar: What has been done in the present Act is that for all other arms, other than the firearms, no licence is needed. The rest of India would be put on the same footing as the Jamma Coorgs so far as other arms are concerned. There are certain restrictions, of course, but those restrictions will apply only in an

emergency. But so far as ordinary arms are concerned, Coorgs and others will be on the same footing. So far as firearms are concerned, licences will be required. In that case you will be affected only so far as the customary right of holding a gun is concerned. In other words, the whole custom for the purposes of the present Bill is watered down only to the question of gun; nothing more. Now, all that is required according to you is that even a gun should be exempted under the provisions of the present Bill. According to the principle accepted by Parliament, for a gun, which is a firearm, a licence will be necessary

Shri Achar: We must not mislead the witness

Shri Datar: Let the hon. Member say that I have

Shri Achar: It is not merely gun.

Shri Datar: I am surprised that the hon. Member has used that expression.

Shri Achar: I am very sorry. What I mean to say is that if you read the rules

Shri Datar: I am not dealing with the rules. I am dealing with the position under the Bill.

Shri Achar: You have misunderstood me.

Shri Datar: Do not use such expressions. I was stating the position under the Bill. I was not referring either to the Arms Act or the rules.

Chairman: It is very unfortunate that the hon. Member has made the remark that the Minister is misleading the witness.

Shri Achar: I regret it. It is not only with regard to gun

Chairman: He is going to explain the position.

Shri Datar: I have this memorandum in my hands. You have made a reference to a number of arms here. You have made a reference to guns

also. Therefore, I have said that so far as arms are concerned, no licence will be required. So far as guns are concerned, they would require licences.

Shri Achar: Under the rules . . .

Shri Datar: I am not going into the rules.

Shri Achar: It is not only with regard to guns that . . .

Shri Datar: Now you have misunderstood me.

Chairman: He is explaining something to the witness. Let the Home Minister continue.

Shri Achar: All right. Then, I will ask separately with your permission.

Shri Datar: In your memorandum you have made reference to a number of arms. You have also made a reference to guns. Is there a reference to any other firearm, other than the gun?

Shri Cariappa: There is no mention to any other arm except the gun.

Shri Datar: You have mentioned sword, spear, sickle, etc.

Shri Cariappa: They are just arms.

Shri Datar: In respect of them, there is no licence needed. So, therefore, there is no trouble over that. The only point of difference between us is this: You have made a reference in your memorandum only to one type of firearm, i.e., the gun.

Shri Cariappa: It is only gun, and we are exempted from the operation of the Indian Arms Act with regard to guns.

Shri Datar: So, our difference is narrowed down to this: Assuming the Bill in its present form is passed by Parliament, you will be affected only with regard to guns and not with regard to others.

Shri Cariappa: Yes.

Shri Datar: Therefore, what you desire is that you should have a right to use this particular firearm, namely, the gun, without any licence. Is that what you want?

Shri Cariappa: Yes.

Shri Datar: Now the position is clear.

An hon. Member: What type of gun?

Shri Datar: It is immaterial.

Shri Achar: Your community, namely, the Kodava Community, whether they have any Jamma or not, all of them are entitled to hold these arms without any licence? Do all the members of this Community have a right to hold guns?

Shri Cariappa: It is only the Kodavas who are Jamma holders. I can define a Kodava. He speaks his own language, the Coorgi language. He wears his own traditional dress. He holds his own land which is inalienable.

Chairman: Is it a caste?

Shri Cariappa: It is not a caste. It is a community.

Shri Sen Varma: Even a non-Coorgi may be a Jamma.

Shri B. M. Cariappa: We have Harijans. We have got our own old social customs where a Coorg village is self-sufficient: you have got your own dhobi, your own barber, your own workers. If they come under the Jamma tenure they are entitled to the exemptions of the Arms Act.

Shri Datar: Even though he may not be a Coorgi?

Shri B. M. Cariappa: Even though he may not be, by community or caste.

Shri Datar: There is some confusion in our minds about this.

Chairman: Is it a fact that all Kodavas own lands?

Shri B. M. Cariappa: Yes, Jamma lands.

Shri Datar: All Kodavas are Jammass?

Shri B. M. Cariappa: All Kodavas are Jammass.

Ch. Ranbir Singh: All Jammass are not necessarily Coorgies.

Shri B. M. Cariappa: All Jammass are Coorgies. But all Coorgies are not necessarily Jammass.

Shrimati Violet Alva: Is it only on the historical ground that you are wanting this exemption?

Shri B. M. Cariappa: May I explain? Jammass are being gradually taken away. Because, there may be bad people who may accumulate lot of debt, thinking that their land cannot be sold. But Government can pass a special rule and sell his land. These are only existing Jammass. New Jammass are not being created.

Shri Datar: What about the purchaser?

Shri B. M. Cariappa: He cannot purchase the Jamma land. If a Jamma land is to be sold, that Jamma characteristic is removed by the Government and the land is sold as an ordinary piece of land.

Chairman: Suppose a Jamma has no issue. What happens in that case to the tenure?

Shri B. M. Cariappa: It goes to the family. Suppose I have no issue. My property, big or small, goes to my family.

Chairman: 'Family' means to whom?

Shri B. M. Cariappa: To my brothers or my uncles.

Shri Datar: If the whole family is extinct?

Shri B. M. Cariappa: Government has a right to remove the Jamma right and sell it. It becomes then an ordinary land.

Chairman: So it is not transferable. It becomes a non-Jamma land.

Shri Achar: In Coorg, the population of this community, that is the Jamma holders, is less than the ordinary population there, is it not?

Shri B. M. Cariappa: Much less. The total population is 2,20,000 while the population of the Jammass is 70,000.

Shri Achar: Even then there is no complaint against them by the other section?

Shri B. M. Cariappa: Absolutely not. If I may digress a little, a Coorg village has got Hindus, Muslims, Pulayas, barbers, dhobis and so on. You can never find a single clash even at the height of tension.

Shri Achar: Probably you have not looked into the exemptions as they are now under the rules. Have you ever looked into them?

Shri B. M. Cariappa: I have not.

Shri Achar: In the present rules you will find that it is not only in respect of guns.

Shri H. P. Saksena: May I know whether this exemption is being claimed on the part of the Coorg people in consideration of the good certificate for the good behaviour that has been given to them and which was read out a moment before by the Home Minister?

Shri B. M. Cariappa: I think I should answer this question. A good certificate might have been given by the British Government when the Britishers took over. A similar and a better certificate was given to the people of Coorg from 1930 onwards when the Coorg people won cent per cent of the elections under the Congress, without a shot being fired or a man raising a stick in his hand.

Shri Datar: In fairness to you, even in 1861 only a small portion of the population must have helped the Government.

Shri B. M. Cariappa: Three families only.

Shri Bibhuti Mishra: In view of the fact that so many "facilities" were

given to the people of India by the Britishers, such as the permanent settlement in Bengal, which this Government has undone, may I know why these people are asking for a special privilege for themselves apart from other people?

Shri B. M. Cariappa: Can I answer that question? If by giving a certain privilege to a certain community which has been enjoying that privilege for centuries, any other person is going to be harmed, by all means remove that privilege. But if by tradition and culture and by a sense of loyalty to the country that privilege has not been misused by that community, for God's sake do not take it away.

Shri Bibhuti Mishra: Do you mean that other people will not be affected?

Shri B. M. Cariappa: Government is the best authority to judge that.

Chairman: Within Coorg itself, will there not be a feeling of discrimination between citizen and citizen?

Shri B. M. Cariappa: Up till now there has been no complaint.

Chairman: Not complaint, but making discrimination between citizen and citizen.

Shri B. M. Cariappa: It has not been there so far, and I do not think there will be any question of discrimination in future also.

Chairman: Because a citizen has the right of equality of status.

Shri B. M. Cariappa: What we say is, please give it if it does not infringe the rights of other people. May I quote one sentence in this connection? The late Sardar Patel said: "If all the people of India behave as the people of Coorg behave, I shall have no hesitation in extending the exemption of the Arms Act for the whole country".

Shri Bibhuti Mishra: In his memorandum the witness has stated that "there have been very very rare cases

of abuse of arms by them". It means that there have been some abuses.

Shri B. M. Cariappa: I do not mean to say that every Coorg is an angel. What I had in mind was this. Every Coorg, or all Coorgs are not angels. There are good and bad people. But taking the sum total and the general principles governing the character of a Coorg man, he has not abused the right of firearms so far. There may be rare exceptions, one stray instance somewhere.

Shri Bibhuti Mishra: In that case the State must come to the protection of that man where he has been affected.

Shri B. M. Cariappa: The State is there, the law is there.

Shri Datar: What the witness says is, not that he alone should have the exemption. He has not got any objection if it is extended to others.

Shri B. M. Cariappa: We are not clannish.

Shri Datar: "Whatever we have, you may give to others. But kindly keep it with us"—that is what he says.

Shri B. M. Cariappa: That is quite correct.

Shri Raghbir Sahai: We understand that you claim this exemption on the basis of individual freedom and time honoured custom and manners.

Shri B. M. Cariappa: More on the basis of the time-honoured custom.

Shri C. P. S. Menon: But guns did not come into India at such an early date as all that.

Shri Raghbir Sahai: But from the Rules that have just been quoted by the hon. the Home Minister (which have been corrected up to 1958) we find that this right has been given to you under the condition that everybody of the community is liable to render military or police service. From what you have stated just now, you do not attach any importance to

this condition. But may I ask you if ever before this you raised this position either before the British Government or before our Government?

Shri B. M. Cariappa: No, we have not. The custom has been going on. There has been no interference, and our people are such law-abiding people.

Shri Raghbir Sahai: Most of us have not been to the Coorg areas and we would therefore be more guided by the rules and regulations and the laws. We are ignorant about your customs. But the rules as they stand provide that you are entitled to this only under certain conditions, that is you should render military and police service to the Government.

Shri B. M. Cariappa: May I see the relevant rule?

Shri Raghbir Sahai: Yes, you will find it on page 31.

Shri B. M. Cariappa: It says: "every person of a Coorg race and every Jumma-tenure holder in Coorg, who by his tenure, is liable to perform military or police duties". "Liable to perform"—it is not a condition made. When he has got the gun and sword, if there is a need, he will certainly go and help the Government.

Shri Datar: I shall explain it to you. The wording is 'liable to perform military or police service'; that is, they might be called upon; but generally, they are not called upon.

Shri Raghbir Sahai: I want him to make it clear whether he accepts this condition 'liable to perform military or police service'. It is not obligatory here.

Shri Datar: This condition is there from before 1920. In the 1920 rules also, we had it.

Shri Raghbir Sahai: So, I say that this condition has been going on, that there is a liability.

Chairman: He accepts that.

Shri Raghbir Sahai: Does he agree to that?

Chairman: He agrees.

Shri Datar: May I point out also the present trends? Such liability or obligation was there in respect of village servants who had certain hereditary lands or certain inam lands etc. Now, broadly, the tendency is to dispense with them altogether and to treat the lands as ordinary lands. That is why this has come in.

Shri Cariappa: About the liability, may I just explain one position? In 1931-32, there was an Indian as the District Magistrate of Coorg and a Britisher as the Commissioner. The British commissioner asked the Indian District Magistrate, a son of the soil, who is exempted from the Arms Act, to call special police from Mysore and shoot at the Satyagrahis in Coorg, but he refused; though he was a servant of the British Crown, a District Magistrate and a very responsible officer, he refused to call them. He said, 'I can handle them; otherwise, everyone has got guns and swords, and there would be terrible shooting; I would not take this risk.'.

Chairman: Shri Raghbir Sahai's question is whether you stick to the condition also.

Shri Cariappa: As I said, we are not a disloyal people. You can impose conditions and all that.

Shri Datar: Nobody says that there was any disloyalty.

Shri Cariappa: Our only point is that for God's sake, please do not take away those rights that we have enjoyed at the time of our birth, death, marriage, ayudha puja, village festivities etc.; if you can, you can extend the rights to others.

Shri Raghbir Sahai: May I have some idea as to how many people out of this Community join the military and police service?

Shri Cariappa: They have not been taken into the service only because there are Coorgies; they have got to

go through certain tests; even today, people are going through these tests, and whoever comes out successful is taken.

Shri Datar: Please do not misunderstand the hon. Member. He is only putting a point in your favour.

Shri Cariappa: I want to be quite correct. We are not joining the military by way of a right; there is no right for us; everyone knows his responsibility; he comes to the Army because of merit.

Shri Datar: But the fact is that there are a large number of Coorgs; it is a matter for congratulation.

Shri Cariappa: They like it. They are there by merit.

Shri Datar: We had General Cariappa.

Shri Cariappa: There is another General now.

Shri Datar: So, it is a matter which is creditable to you. The hon. Member has only put it that way.

Shri Cariappa: I understand that; I thank him for that. But I would also point out the other fact that they are not taken into the Army only because they are Coorgies; they come by merit; if a larger number are there, they are there because of merit.

Shri Datar: Assuming that you say that they are there on account of long military traditions, just like the Rajputs, or the Maharattas and so on....

Shri Cariappa: I am not saying that.

Shri Datar: There is a long military tradition.

Shri Cariappa: Historically, these things can be dovetailed.

Shri Datar: You need not be apologetic about it.

Shri Cariappa: I am not; I am proud of that.

Shri Datar: It is a matter to be proud of.

Shri Cariappa: I am proud of it certainly.

Shri Achar: This tradition is there because they were allowed to use guns from long since.

Shri Datar: About guns also, I understand the position.

Shri Raghbir Sahai: As regards those who are not in the military or the police service, do they all have guns and firearms?

Shri Cariappa: Of course; I have got a gun; I am not in the military.

Shri Datar: We have some doubt about one point. The terms 'Kodavas' and 'Jmmas' are interchangeable?

Chairman: Is that correct?

Shri Cariappa: They are the same term.

Chairman: Kodavas are the Jamma-landholders?

Shri Achar: Persons other than Kodavas also can be Jamma holders.

Chairman: Yes, there are dhobis, barbers....

Shri Cariappa: The only implication is that they were the sons of the the soil; all the land belonged to them; later on, when other communities came, they were also given the land.

Chairman: Could you please answer one point concerning facts? You said Kodavas and Jmmas are interchangeable terms. We understood that to mean that it was only the Kodava Community who were Jamma holders. Now, from what Shri Achar has said, it appears that even non-Kodavas also can be Jamma holders.

Shri Cariappa: They are Jamma holders.

Chairman: Ultimately, you said that Jmmas are non-transferable; if a person dies without any family issue then the land is taken out of the Jamma tenure. So, a member of

any other community or caste also can purchase the Jamma tenure and....

Shri Cariappa: They cannot purchase.

Chairman: So, you stop the Jamma at that.

Shri Achar: We had long ago in the village units, Jamma holders other than Kodavas.

Shrimati Alva: Is there no disqualification for ceasing to be a Jamma holder?

Shri Cariappa: If he does not pay the land tax or the land tenure tax for one or two years, he is given several warnings, and Government terminate it.

Shrimati Alva: Caste and creed are no disqualification?

Shri Cariappa: It is only the land revenue arrears and the abuse of the whole thing. Supposing he accumulates too much of debt on the ground that he is conscious of the fact that his land cannot be sold, then it is left to the Government and the competent court to find out whether the man has really abused his right; then they can sell it.

Chairman: Therefore, it comes to this that if there is default of rent or revenue, or there are other debts, then the Jamma is put to auction?

Shri Cariappa: By the State:

Chairman: Any person purchasing it will get....

Shri Cariappa: He does not get it as Jamma land; he gets it as an ordinary piece of land; the Jamma right is not transferable.

Shri Achar: As he explained it earlier, in a village unit, there are barbers, there are dhobis and there are other sections of the community. They were also granted Jamma originally; they are Jamma holders; even now, they are there.

Chairman: Whoever was a Jamma-holder can continue to be a Jamma-holder.

Shri Datar: Kodava or otherwise.

Chairman: So, all Kodavas are Jamma holders, but non-Kodavas also may be Jamma holders.

Shrimati Alva: If a Jamma holder ceases to be a Jamma holder, does he lose the right to the weapons?

Shri Cariappa: He does lose.

Shri Achar: But if he is a Kodava, he would not. Even if a Kodava loses his Jamma right, still, as a Kodava, he will have the right.

Shri Cariappa: It is left to Government to decide it.

Shri Sekhar: May I ask one question?

Chairman: Let certain issues be definitely understood by us first. Any additional questions that you want to ask you may ask later. He has not yet cleared the confusion that has already arisen; it is for him to explain the position now.

Shri Cariappa: I am a Jamma Kodava myself; among the Jamma Kodavas, there are pegdes, now called Hegdes, dhobis....

Chairman: You have mentioned in the second para of your letter that Jamma Coorgs are called Kodavas. Then, you have stated that all Kodavas are Jamma holders; at the same time, you said that communities other than Kodavas are also Jamma holders, such as dhobis, barbers etc.

Shri Cariappa: I would put it the other way; even among Jamma Kodavas....

Chairman: I am asking this question, because we could not follow you. First of all, you have said that Kodavas are Jamma holders. Secondly, you have stated that even if a person not be a Kodava, yet by virtue of custom, he can be a jamma holder. So, non-Kodavas also can be Jamma holders?

Shri Cariappa: Yes.

Chairman: So the distinction lies here. Jamma tenure is not transfer-

able and even if it be put to auction by Government and somebody else purchases it, the jamma right is extinguished?

Shri Cariappa: It is not transferred.

Chairman: So non-Kodavas can be Jamma holders.

Shri Cariappa: Yes; there are.

Chairman: Only those families who are non-Kodavas and who were holding these Jamma rights from before by right of custom can come in.

Shri Cariappa: That is correct.

Shri N. C. Sekhar: You said that Jamma land in Coorg is not transferable. To my knowledge some new development is taking place. I hope you would please explain this position. Land is mortgaged to people who go there from outside with money and these lands are being converted into coffee estates. I know this is happening in north Coorg. A woman from Mysore is owning something about 300 to 400 acres and she is selling plots of land. Certain people from Malabar area have purchased 2 to 3 acres each, and this is taking place all along the Coorg area. Estates are being established there. How is that development taking place?

Shri Cariappa: In the first place, all land in Coorg is not Jamma land. The land that the hon. Member is referring to is non-Jamma land. No Jamma land is being given to any planter and there is no plantation in Jamma area. Jamma land is mainly agricultural land. There is no coffee estate or tea estate or rubber estate in any Jamma land. I am categorical about that. Jamma tenure is the original holding.

Shri H. P. Saksena: Am I right in thinking that all your claim to exemption is based on your good and brilliant record of service that you rendered to the Britishers during their time?

Shri Cariappa: I have previously answered that question. I have said it is not as a recognition of the meritorious service rendered by any Coorgi that we have got this right. This right

has been there from the time the fire arms came to be used. Before the guns came, the children were given bows and arrows and when gunpowder was introduced, the people of Coorg marched with the times. There is no connection between this and their loyal services to the British Government.

Now, I come to the question of the other hon. Member. No estate is in Jamma land and the land in north Coorg which the hon. Member referred to is known to me. I know the lady also. All this land is non-Jamma land which they got a long time ago. Jamma tenure does not extend to that land.

Shri Datar: Is that lady Sakkamma?

Shri Cariappa: Yes. There is no Coffee estate in any wet land or Jamma land.

Shri Datar: Shri Mishra wants to know the acreage of Jamma land as opposed to the total acreage.

Shri Cariappa: I can roughly say. There are landholders who may be having only 3 acres of Jamma land and 100 acres of non-Jamma land. I could not say how much would be the total area. But it may be about one-third of the arable land. One-third may be Jamma land and the other two-thirds may be sago land.

Chairman: Can you give the maximum holding by an individual?

Shri Cariappa: It may not be more than 10 acres at the most. There are sago lands adjacent to that. My father had only 3 acres of Jamma land; he might have had about 7 or 8 acres of sago land.

Shri Datar: Sakkamma was a Jamma holder.

Shri Cariappa: No; she was a sago landholder and a planter.

Shri Vajpayee: Have the landless labourers also the same power or are they discriminated against?

Shri Cariappa: The very fact that they are landless shows that they are non-Jamma holders. Among the Jamma holders there is no labourer. He is his own labourer. The point the hon. Member is referring to is about the coffee estates. They are not jamma holders and they cannot have this right.

Chairman: Even if a Jamma holder owns 3 acres of land, will he not accept labour under tea garden holder?

Shri Cariappa: No.

Chairman: All Kodavas are Jamma holders and no Kodava will work in other lands. Is it correct?

Shri Cariappa: Normally, they won't because they have enough.

Chairman: Do you think 3 acres is enough?

Shri Cariappa: Take the case of my father. He had only 3 acres. He brought me up. I had not to pay by way of school fees....

Shri Datar: The first 'krishi pandit' was from Coorg; he got the Rs. 5,000 award.

Shri Cariappa: He was a non-Coorgi Jamma tenure holder.

Shri Datar: The first Chief of the Army came from Coorg.

Shri Cariappa: The third also.

Shri Bibhuti Mishra: Because they were favoured by the British.

Shri Cariappa: No, Sir. After independence it was not the British.

Shri Datar: You said that those who did not belong to the Coorg Community but who came there and settled there got Jamma rights.

Shri Cariappa: Yes; they were the original sons of the soil. The difference is according to the division of labour. For example there are *dhobis*. They are non-Kodavas. There are Hegdes or Bagades doing work in the temples. They are non-Kodavas but not non-Coorgis.

Shri Bhakt Darshan: If only one gun is kept in a village licence-free and

used on ceremonial occasions instead of keeping all the guns licence-free what have you to say?

Shri Cariappa: I can only say that it will be taking away our rights. Perhaps you have no idea of a Coorg village. It is a solid consolidated area and in times of rain no person other than a Coorgi can even walk up to a house and find where the gun is at the time of birth ceremony or death ceremony. I am only emphasising what Coorg life is.

Shri Datar: I want to know whether for crop protection a muzzle-loading gun would be sufficient.

Shri Cariappa: Even a muzzle-loading gun is not necessary. The general impression people have got is that Coorgis are exempt from the Arms Act only because there are too many monkeys which come and damage the crops. I can tell you the whole of Coorg is not infested with monkeys and monkey nuisance is only in coffee estates which is not Jamma tenure.

Shri Datar: I am asking you a simple question. You are also a cultivator and therefore, you may know. For *bona fide* crop protection would a muzzle-loading gun be sufficient?

Shri Cariappa: It is quite enough to frighten away a monkey.

Ch. Ranbir Singh: Do you feel that a muzzle-loading gun is better or a smooth-bore gun is better or a rifle is better so far as crop protection is concerned?

Shri Cariappa: Muzzle-loading gun is smooth-bore.

Chairman: What Shri Cariappa says is that in order to drive away monkeys, a muzzle-loading gun is sufficient.

Chairman: I think we have got all the information. On behalf of the Committee, I thank you for giving us very valuable information.

Shri Cariappa: Thank you, Sir, very much.

(The witness then withdrew).

The Committee then adjourned.