



# THE SENATE OF PAKISTAN DEBATES

## OFFICIAL REPORT

Saturday, April 20, 1974

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PRINTED BY THE MANAGER. READING PRINTING PRESS 4 - URDU BAZAR, LAHORE  
PUBLISHED BY THE MANAGER OF PUBLICATION, KARACHI

SENATE DEBATES  
SENATE OF PAKISTAN

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Saturday, April 20, 1974  
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The Senate of Pakistan met in the Senate Chamber, (State Bank Building), Islamabad, at ten of the clock in the morning, Mr. Presiding Officer (Mr. Fazal Elahi Piracha) in the Chair.

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(Recitation from the Holy Quran)  
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STARRED QUESTIONS AND ANSWERS

Mr. Presiding Officer : Questions. Mr. Niamatullah Khan, your question No. 41.

TRADE WITH CHINA

41. \*Mr. Niamatullah Khan : Will the Minister for Commerce be pleased to state ;

- (a) Whether with the opening of the Silk Route, trade with China is going to be resumed shortly ;
- (b) Whether China which has almost one third of the world population, has a huge market for products from friendly countries like Pakistan ;
- (c) Whether Peshawar is ideally located for goods to be trans-shipped to and from China ; and
- (d) Whether with the opening of the dry-port at Peshawar, economic uplift of this backward area will take place because of the jobs and other opportunities which will be available ?

Mr. J. A. Rahim : (a) Trade with China both via the Silk Route and via sea has been proceeding uninterruptedly. The question of resumption thereof does not arise.

(b) Yes.

(c) No. For the present border trade over the Silk Route is designed to meet the requirement of the Northern Areas only. The communications

[Mr. J. A. Rahim]

between the Northern areas and Peshawar are not very good at present.

- (d) No. The question of opening of a dry-port at Peshawar at present does not arise. There is already an inland customs house at Torkham where facility for import/export and transit trade is available. While the present volume of foreign trade and over-land trade of NWFP with European countries or sea-borne trade does not justify Peshawar being declared as a dry-port, the Government would be willing to consider offering appropriate customs facilities with the further development of trade.

**Mr. Niamatullah Khan :** Will the Government consider creating a dry-port at Peshawar or anywhere in the northern area in NWFP ?

**Mr. J. A. Rahim :** I do not know what the honourable Member wants. Now a dry-port is usually made where in order to avoid shipping documents to be made at the harbour itself ; they are made in the interior. It is a case of overland trade in Peshawar.

**Mr. Niamatullah Khan :** I just want it on the pattern of Lahore.

**Mr. J.A. Rahim :** What is a dry-port. It means that the goods in Lahore will be sent to Karachi having completed the formalities at Lahore itself but for shipping and goods coming into Karachi Harbour would be received at the dry-port of Lahore and the formalities completed there. But I do not understand the reason for a dry-port at Peshawar when trade is purely across the border route.

**Mr. Niamatullah Khan :** That is what I want it at Peshawar. There is no such facility available there. Will the Government consider it ?

**Mr. J. A. Rahim :** What does he mean by a dry-port ?

**Mr. Niamatullah Khan :** All the machineries which are now in Karachi will come to Peshawar and persons going to Karachi from NWFP will not have to under go the journey and the expenditure ; besides it will create more jobs.

**Mr. J. A. Rahim :** Trade in that regions is by land route. Customs facilities are available. He wants a dry-port for a trade going by the land ; this is what I do not understand. We do not understand how more jobs will be created except for the few Government officials. It is not a creative industry.

**Mr. Presiding Officer :** Next question please.

#### IMPORT OF SECOND HAND MACHINERY

42. **Mr. Niamatullah Khan :** Will the Minister for Commerce be pleased to state :

- (a) whether we can save a huge amount of our valuable foreign exchange by importing second-hand machinery ;
- (b) whether new industries will come up sooner because of the low cost and the short delivery period of the second-hand machinery ;

- (c) whether the import of second-hand machinery particularly, textile, has been allowed ; and
- (d) if the answer to (c) above be in the affirmative, whether the concerned agencies would be informed of it so that the people who are thinking of importing second-hand machinery may take advantage of it ; if not, the reasons thereof ?

**Mr. J. A. Rahim :** (a) Some saving of foreign exchange can be expected provided such machinery is in good condition and has substantial life expectancy.

- (b) Yes, but it may not be in national interest if the machinery is not in good condition or is obsolete.
- (c) Yes.
- (d) The concerned agencies are aware of the Government policy regarding import of second-hand machinery.

**Mr. Niamatullah Khan :** My one question has been omitted. I submitted a question that there should be a reduction on import duty ; if the import duty is reduced to 20% foreign exchange will be increased

**Mr. J.A. Rahim :** Sir, the question put to us was like this (a) whether we can save a huge amount of our valuable exchange by importing second-hand machinery ; (b) whether new industries will come up sooner because of the low cost and the short delivery period of the second-hand machinery ; (c) whether the import of second-hand machinery particularly, textile, has been allowed ; and (d) if the answer to (c) above be in the affirmative, whether the concerned agencies would be informed of it so that the people who are thinking of importing second-hand machinery may take advantage of it; if not, the reasons thereof ?

Now, I will give the reason. No question has been asked about the reduction of duty.

**Mr. Niamatullah Khan :** There is no bearing. I think it might be omitted. So, I ask this in the form of supplementary. Will the honourable Minister be able to tell that if by decreasing the custom duty from 20 per cent.

**Mr. Presiding Officer :** It is not relevant to the question.

**Mr. J.A. Rahim :** I will give the answer. The whole thing is this that it is not nearly always the worse second-hand machinery which is not economical ; but there are cases and Government has laid a policy where under certain condition we allow machinery to be imported which is not obsolete. This old machinery manufactured in 1961 has substantial life and the cost of the second-hand machinery was economical and much lower than that of the new machinery. A Fitness Certificate was obtained from a surveyor and consultants of international repute. That was condition in 1961. Sometimes second-hand machinery may be made available in the country. Every time it it depends upon a particular case. So a general principle cannot be enunciated with regard to the import of second-hand machinery.

**Mr. Niamatullah Khan :** Second-hand machinery must be in good condition. If it is imported it will be seen that it is in good condition.

#### STATE LIFE INSURANCE POLICIES

43. \***Khawaja Mohammad Safdar :** Will the Minister for Commerce be pleased to state :

- (a) the time taken by the State Life Insurance Corporation, Particularly the companies in B Unit, in issuing a policy after all the formalities are completed and the first premium received by the Corporation ;
- (b) whether it is a fact that the General Manager B Unit went on an official tour to Skardu ; and
- (c) if the answer to (b) is in the affirmative, the purpose of the tour and the result achieved from that tour ?

**Mr. J.A. Rahim :** (a) After all the formalities have been completed and the first premium received, the normal time for the issue of policies in the State Life including the 'B' Beema Unit, is 15 days.

(b) No.

(c) Does Not arise.

**Mr. Presiding Officer :** Next.

#### PROMOTION AS MARKET INSPECTOR CDA

44. \***Mr. Kamran Khan :** Will the Minister for production, Town planning and Agrovilles be pleased to state :

- (a) the prescribed qualifications and experience for the post of the Market Inspector, Municipal Administration, Capital Development Authority, Islamabad ;
- (b) whether he is aware that the *ex-Director* Municipal Administration (who retired in May, 1973), a few days before his retirement promoted a clerk of his office as Market Inspector without advertising this vacancy in the press thereby ignoring the Government instructions ;
- (d) if replies to (b) and (c) above be in the affirmative, do the Government intend to :
  - (i) revert the irregular promotee and recruit a suitably qualified person to the post of Market Inspector ; and
  - (ii) if so, when ? if not, why not ?

**Mr. J.A. Rahim :** (i) For Direct Recruits B.A. with 3 years experience.

(ii) For Departmental Promotees U.D.C. with 5 years experience as such.

(b) No person was appointed in the past who did not have requisite experience or qualifications.

- (c) The post was filled-in a regular manner by promoting the senior most departmental candidate. Since it was a case of departmental promotion, advertisement of the post was not required. Government instructions were not ignored.
- (d) Does not arise.

## DEFERRED STARRED QUESTIONS AND ANSWERS

(Originally set down for answers on 13th April, 1974)

## STRANDED PAKISTANIS IN NEPAL

26. \***Khawaja Mohammad Safdar** (Put by Mr. Kamran Khan) : Will the Minister for Cabinet Division, be pleased to state :

- (a) whether about two thousand and four hundred Pakistani men, women and children are still stranded in Nepal, and have not so far been issued clearance certificates.
- (b) whether it is a fact that no relief has so far been given to the Pakistanis mentioned in (a) above ;
- (c) whether it is a fact that repeated requests have been made by the Pakistan Embassy in Nepal to the Federal Government to arrange for their repatriation, as they (the Pakistanis) are living an extremely miserable life and are forced to take to begging due to financial hardship ; and
- (d) the steps the Federal Government intend to take to relieve the misery and deplorable condition of these Pakistanis ?

**Mr. Khurshid Hasan Meer** : (a) About 2,3000 persons in Nepal have applied for repatriation but they do not fall in any of the approved categories eligible for repatriation.

(b, c and d) As they do not fall in approved categories, they have not been repatriated. However, Government is providing all the financial assistance required for relief to these persons including provision of clothes and food.

## IMPORTED LIQUOR

27. \***Khawaja Mohammad Safdar** (Put by Mr. Kamran Khan) : Will the Minister for Commerce be pleased to state the quantity and the value of all kinds of liquor imported in Pakistan during the years 1972 and 1973 respectively?

**Mr. J.A. Rahim** : 1972 : 41850 Gallons valued Rs. 23,04,000.  
1973 : 34656 Gallons valued Rs. 23,86,000.

This includes imports by foreign missions against their own foreign exchange.

## SERVICE QUOTA

28. \***Haji Sayed Hussain Shah** : Will the Minister for Establishment be pleased to state :

[Haji Sayed Hussain Shah]

- (a) whether last year the Federal Government issued a notification fixing service quota for different provinces ;
- (b) if answer to (a) above be in the affirmative, whether this quota system, as applicable to the civil posts in the Federal Government, has been extended to all autonomous and semi-autonomous bodies under the control of the Federal Government ; and
- (c) if the answer to (a) above be in the affirmative, what quota is allotted to each province ?

**Mr. Khurshid Hasan Meer :** (a) Yes.

(b) Yes. provincial/Regional quota has also been made applicable to appointments equivalent to grade 17 and above in all autonomous/semi-autonomous bodies which are administratively controlled by the Federal Government.

(c) Merit. 10%

Punjab (including Federal area of Islamabad). 50%

Sind (including Karachi). 19%

The share of Sind will be further sub-allocated in the following ratio :

Urban areas namely Karachi, Hyderabad and Sukkur of 19% or 47.6% 40%

Rural areas i.e., rest of Sind Sind excluding Karachi, Hyderabad and Sukkur of 19% or 11.4% 60%

N.W.F.P. ... 11.5%

Baluchistan. -- 3.5%

Northern Areas. -- 4%

Centrally Administered Tribal Areas.

Azad Kashmir. ... 2%

#### LEAVE OF ABSENCE

**Mr. Presiding Officer :** There is leave application by Mr. Sayed Qamaruz-Zaman Shah as he has gone out of the country. May it be granted ?

*(The leave was granted)*

**Mr. Presiding Officer :** Leave is granted.

Senator Kamran Khan, adjournment motion please.

**Mr. Kamran Khan :** Sir, I have given notices of two adjournment motions. If I could move the second one first ?

**Mr. Presiding Officer :** You do not want to move the first one ?

**Mr. Kamran Khan :** I want to move but if you kindly permit me to move that adjournment motion first because it might be some help to the people involved.

**Mr. Presiding Officer :** I have no objection. Yes, please.

**Mr. Kamran Khan :** Sir, I beg to move that the business of the Senate be adjourned.

**Mr. Presiding Officer :** You should ask for leave first.

**Mr. Kamran Khan :** Yes, Sir, I did.

ADJOURNMENT MOTION RE : NON-ACCEPTANCE OF DEMANDS  
OF MILITIA, POLICE ETC OF SWAT AND DIR

**Mr. Kamran Khan :** Sir, I beg to move :

“That the business of the Senate be adjourned to discuss a matter of urgent public importance and of recent occurrence, namely, the situation arising out of the non-acceptance of legitimate demands of the Militia, Police and Road Maintenance Gangs of Swat, Dir and Chitral as a result of which about 15,000 persons belong to the said services have started on a long march on foot to Islamabad.”

**Mr. Presiding Officer :** Are these people in the service of the Provincial Government or the Central Government ?

**Mr. Abdul Qaiyum Khan (Minister for Interior State, Frontier Regions and Kashmir Affairs) :** They are in the service of the Provincial Government and on that score objection is being raised. This matter is within the competence of the Provincial Government and the Central Government is not at all concerned. I have read in the newspaper that the Frontier Assembly is shortly meeting and the matter can be raised there where it can be more effectively dealt with. This is not a matter which we can decide.

**Mr. Kamran Khan :** Militia in fact was the army of these States. I have used the word ‘militia’ so that there should be no confusion because the new rulers of these areas have started calling them militia.

**Mr. Presiding Officer :** The question merely is whether they are in the Provincial service or the Central service ?

**Mr. Kamran Khan :** The areas of Swat, Dir and Chitral are not entirely under the Provincial Government. Under the Constitution also if they want to extend any laws to these areas, they have to obtain the assent of the President and the Federal Government. So, the Federal Government has as much a say or rather greater say in the affairs of these areas than the Provincial Government and moreover, Sir, if you would allow me to speak briefly about the history of merger . . .

**Mr. Presiding Officer :** No.

**Mr. Kamran Khan :** I am not discussing the merits.

**Mr. Abdul Qaiyum Khan :** I have another objection. These people were receiving grants from the former rulers. Now every source of income which the former rulers used to receive goes to the Provincial Government. Therefore, it is the Provincial Government which has to deal with them. The Federal Government receives nothing out of the income which the former rulers used to receive and is not entirely diverted to the Provincial Governments and these are employees of the Provincial Government. They are not the employees of the Central Government. The mere fact that my learned friend calls them militia—they are not militia—but they were the servants of the rulers and they were receiving so much conveyance and so much other things and they have now been taken over by the Provincial Government. The trouble is that all these matters which pertain to the Provinces are being agitated in the national form and this should not be allowed.

**Mr. Karman Khan :** Sir.....

**Mr. Presiding Officer :** I would not allow any discussion. I am satisfied that the matter belongs to the Province.

**Mr. Kamran Khan :** These people are on their way. Fifteen thousand people are on their way to Islamabad.

**Mr. Presiding Officer :** It is not the concern of the Central Government and it is ruled out of order.

Next adjournment motion please.

#### ADJOURNMENT MOTION RE : PRESS REPORT ABOUT LOYALTY OF AIR FORCE PERSONNEL

**Mr. Kamran Khan :** Sir, I beg to move that the business of the Senate be adjourned to discuss a matter of urgent public importance and of recent occurrence, namely, the report appearing in the Pakistan Times, Rawalpindi of 19th April, 1974, saying that some senior officers say that the Prime Minister can now have full faith in the Air Force, and all officers and men will be willing now to sacrifice their lives not only for the country but for Mr. Bhutto also. The report has caused an aspersion on the patriotism and high sense of duty of the Pakistan Air Force and has thus caused resentment in the country.

**Mr. Presiding Officer :** Gentlemen, I feel that this is merely hypothetical and contains inferences. What has the Government to say about it?

**Mr. Abdul Qaiyum Khan :** Government has no information of any officer having made a statement of the kind given in Pakistan Times of 19th April, 1974. Government has merely brought about a few necessary changes and, as stated by the Prime Minister in his Press Conference of the 19th April, it was in the interest of the country, the armed forces and Pakistan Air Force itself. The Prime Minister and the nation as a whole have complete faith in its armed forces. There has never been any doubt at any time in the loyalty and fighting efficiency of the Pakistan Air Force which has played its fully part at all times in safeguarding the frontiers and integrity of the country. Now, this is a very sensitive matter and a mere remark by somebody is being agitated in this very responsible forum. We should be very careful in what we say about the armed

forces and after the Prime Minister's statement this sort of thing should not have been brought in the form of adjournment motion. It is opposed, Sir.

**Mr. Kamran Khan :** This is exactly what I wanted. The changes in the armed forces should not be made subject of discussion in the press. Now there were changes and I had the honour to raise the question of the retirement of these officers who had been acquitted in the General Court Martial, and there were restrictions imposed upon them, and I had the honour to raise that demand in the form of a question here.

**Mr. Abdul Qaiyum Khan :** On a point of order. He is opposing his own adjournment motion. The honourable Member is now trying to say that whatever advantages certain officers gained were due to his efforts. This is direct interference in the internal administration of the Defence Services. This is a very sensitive subject and we and the Opposition should both refrain from raising any matter of this kind on this forum specially after the statement of the Prime Minister.

**Mr. Kamran Khan :** My submission is that why should the changes in the armed forces be made subject of these things. The statement really shows that if these changes had not been brought about the Pakistan Air Force would not have been sacrificing all for the defence of the country and it is only on account of these changes that they are now willing. I have underlined the word 'now'.

**Mr. Abdul Qaiyum Khan :** The honourable Member is reading somebody's opinion. How are we responsible for somebody? This is a free country and people can say anything. Government is not responsible for opinions. Government had always full faith in the loyalty of Air Force and all its Defence Services and it has full faith now and changes are made from time to time in the interest of the Services. That does not mean a change and that does not mean that the Government has no faith in the Air Force or in any other Service.

**Mr. Presiding Officer :** I would not allow any further discussion. This is merely hypothetical and contains inferences. It is out of order.

Now, the next.

#### THE WEST PAKISTAN ARMS (AMENDMENT) BILL, 1974

**Mr. Abdul Qaiyum Khan :** Sir, I beg to move :

"That the Bill further to amend the West Pakistan Arms Ordinance, 1965 [The West Pakistan Arms (Amendment) Bill, 1974], as passed by the National Assembly, be taken into consideration."

**Mr. Presiding Officer :** Motion moved is :

"That the Bill further to amend the West Pakistan Arms Ordinance, 1965 [The West Pakistan Arms (Amendment) Bill, 1974], as passed by the National Assembly, be taken into consideration."

**Mr. Shahzad Gul :** Opposed.

**Mr. Abdul Qaiyum Khan :** \*Sir, this Bill has been passed by the Assembly

\*Speech not corrected by the honourable Minister.

[Mr. Abdul Qaiyum Khan]

and it seeks to amend the West Pakistan Arms Ordinance, 1965. It is a very simple Bill. It seeks to achieve two things :

- (1) that the Federal Government shall have the power to decide and to notify which weapons (Bore Weapons) are prohibited weapons,
- (2) that the Federal Government will alone have the power to issue licences for prohibited bore weapons throughout Pakistan.

It says :

“That as far as the non-prohibited borne weapons are concerned, the Federal Government shall have the power to issue licences for non-prohibited bore weapons relating to the whole or any part of Pakistan and the Provincial Government shall have the power to issue licences for non-prohibited borne weapons, which power shall be exercised by the said Government subject to section 11.”

Sir, to clarify the idea I may just mention one thing. I draw the attention of this honourable House to Concurrent List 17 at page 173 and in this Concurrent List at item 17 it has been placed, and this Concurrent List under the present Constitution deals with Fire Arms and Ammunitions, and then I draw the attention of the House to Article 143 of the Constitution at page 65.

Article 143—Inconsistency between Federal and Provincial laws :

“If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to any of the matters enumerated in the Concurrent Legislative List, then the Act of Parliament, whether passed before or after the Act of the Provincial Assembly, or, as the case may be, the existing law, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.”

My object in citing this was that the subject of Arms etc. is on the Concurrent List and Article 143 says that any law passed by the Parliament shall over-ride the Provincial Law.

Now, the necessity for this has been felt, because a law of Automatic Arms had been issued in an unauthorised and wholesale manner in the Provinces and as the Defence Services alone must have automatic weapons and, therefore, we did not wish to create law and order conditions in the country. The Federal Government came to the conclusion that with a view to restrict the number of licences for prohibited bore weapons, it must assume full power and there should be uniform policy for the whole country.

Similarly, in the matter of definition of Prohibited Bore Weapons, there should be uniformity. Therefore, this Law is being enacted and passed by the Assembly and I commend it to this honourable Senate that this is practically a simple Bill, not complicated, hardly contentious, in the best interest of the country and it should be passed.

**جناب شہزاد گل :** جناب والا ! محترم وزیر داخلہ نے فرمایا ہے کہ Arms and ammunition جو ہیں وہ Concurrent list میں ہیں اور اس کے متعلق صوبائی حکومتیں اور مرکزی حکومت دونوں قانون سازی کی مجاز ہیں حالانکہ Concurrent List میں جہاں پر یہ اختیارات درج کیے گئے ہیں وہ qualify نہیں کرتے ہیں۔ اس کا مطلب یہ ہوا کہ صوبائی حکومتوں کو اس بات کا اختیار دیا گیا ہے کہ اس کلاز کے تحت وہ ہر قسم کے ہتھیاروں کے لائسنس دے سکتی ہیں اور موجودہ بل پاس کرنے سے ہم آئین میں ترمیم کریں گے جو کسی صورت میں بھی جائز اور درست نہیں ہے۔

**Mr. Abdul Qaiyum Khan :** It is a misstatement. I have read Article 143. The honourable Senator is a lawyer.

۱۴۳ میں لکھا ہے کہ صوبائی قانون پر مرکزی قانون overrule کرتا ہے۔ پھر آئین کی مخالفت کیسے ہوئی؟

**Mr. Mohammad Hashim Ghilzai :** "Provided the law is inconsistent" how can we say that this is inconsistent ?

**Mr. Presiding Officer :** Let him speak and then you reply at the end

**جناب شہزاد گل :** \*جناب والا ! آئین میں صوبوں کو یہ اختیار دیا گیا ہے کہ وہ آرمز کے متعلق قانون سازی کریں اور لائسنس جاری کریں۔ Prohibited اسلحہ کے لیے بھی اور non-prohibited کے لیے بھی۔ آئین بناتے وقت محترم وزیر داخلہ آئینی کمیٹی کے ممبر تھے۔ کافی سوچ بچار کے بعد یہ فیصلہ کیا گیا تھا۔ اس سے قبل Prohibited bore میں issue کرنے کا اختیار فیڈرل گورنمنٹ کو حاصل تھا۔ آئین سے قبل جو accord ہوا تھا مختلف پارٹیوں کے درمیان یہ اختیارات مرکز اور صوبوں دونوں کو دینے پر سمجھوتا ہوا تھا۔ اس لیے Concurrent List میں درج کیا گیا ہے۔ سمجھوتا یہ ہوا تھا کہ یہ اختیارات صوبوں کو بھی حاصل ہوں گے۔ اب یہ آئین میں ترمیم کرنی والی بات کر رہے ہیں۔ میں اس قانون پر بحث کر رہا ہوں جس میں Concurrent List میں درج شدہ کلاز ۱۷ بے معنی ہو کر رہ جائے گی۔ صوبوں کے اختیارات ختم ہو جائیں گے۔ اس کے علاوہ جیسا کہ اغراض و مقاصد میں درج ہے اور محترم وزیر داخلہ نے بھی فرمایا ہے کہ صوبائی حکومتوں نے بہت سے ایسے لائسنس جاری کیے ہیں جو ملکی مفاد میں نہیں ہیں اس لیے یہ اختیارات جو مرکز اپنے ہاتھ میں لینا چاہتا ہے۔

[Mr. Shahzad Gul]

جناب والا ! بدقسمتی کی بات ہے کہ یہ ملک دشمنی کا لفظ ابھی تک کسی قانون میں define نہیں ہوا۔ کوئی شخص بھی جس کے ہاتھ میں اختیارات ہوتے ہیں وہ ہر ایک مخالف کو جو اس کے راستے پر راس نہ آئے تو ملک دشمن لفظ سے نوازتا ہے۔ ۲۷ سال گزر گئے۔ جناب والا ! شروع میں گورنمنٹ آف انڈیا کے وقت میں ملک دشمن کے لفظ کی تعریف نہیں کی گئی تھی اور ملک چلتا رہا۔ اس کے بعد ۱۹۵۶ء کے آئین میں بھی یہی سلسلہ چلتا رہا۔ حالانکہ جب ۱۹۵۸ء کا مارشل لاء لگایا گیا تھا تو اس مارشل لاء کے دوران ملک دشمن اور ملک کے مفاد کے خلاف یا عوام کے مفاد کے خلاف سابقہ سرگرمیوں کی وجہ سے بعض اشخاص کو ایڈو کیا گیا، سیاست سے نکال دیا گیا۔ لیکن ان کو سزا نہیں دی گئی اور ملک دشمن کے لفظ کی تعریف نہیں کی گئی۔ ۱۹۶۲ء کے آئین میں بھی یہی سلسلہ چلتا رہا لیکن اس کے بعد جب سے دوسرے لوگ کرسی وزارت پر آئے ہیں تو ان کو سب غدار یا ملک دشمن اور ان کی ساری سیاسی سرگرمیاں ملک دشمن دکھائی دینے لگی ہیں۔ ہمارے وزیر اعظم صاحب نے اسمبلی کے فلور پر اور جلسوں میں کئی مرتبہ کہا ہے کہ ملک میں کوئی بھی شخص ملک دشمن یا غدار نہیں ہے۔ کئی نعروں میں انہوں نے واضح الفاظ میں کہا ہے۔

Mr. Abdul Qaiyum Khan : Point of order, Sir, I used the words 'anti-social'. I think, I only said these words.

(Interruption)

Mr. Presiding Officer : Let him continue.

Mr. Abdul Qaiyum Khan : All right, Sir.

جناب شہزاد گل : \*جناب والا ! جہاں تک مجھے علم ہے صوبہ سرحد میں مستقل آئین کے نفاذ سے پہلے جو حکومت تھی وہ عبوری آئین کے تحت تھی اور اس وقت حکومت کے پاس prohibited bores کے لائسنس جاری کرنے کے اختیارات نہیں تھے۔ اگر prohibited bores کے لائسنس جاری کیے ہوں گے تو چاروں صوبوں میں جو اب برسراقتدار پارٹیاں ہیں ان کی حکومتوں نے جاری کیے ہوں گے۔ اگر انہوں نے غلط اشخاص کو جاری کیے ہیں تو اس کی ذمہ داری ان پر ہے۔ پنجاب میں بھی، سندھ میں بھی، بلوچستان میں بھی اور صوبہ سرحد میں بھی۔ اس سے قبل بلوچستان اور صوبہ سرحد میں جو حکومتیں تھیں وہ عبوری آئین کے تحت تھیں اور عبوری آئین میں ان صوبائی

حکومتوں کو prohibited bores کے لائسنس جاری کرنے کے اختیارات نہیں تھے صرف non-prohibited bores کے لائسنس انہوں نے جاری کیے ہیں اور اگر وہ لائسنس غلط اشخاص کو جاری ہو گئے ہیں تو مرکزی حکومت ان کو cancel بھی کر سکتی ہے تو جو کچھ ہوا ہے وہ برسراقتدار پارٹی کے ہاتھوں سے ہوا ہے۔ برسراقتدار پارٹی کی حکومتوں نے ہی جاری کیے ہوں گے۔ حزب اختلاف نے کسی کو بھی لائسنس جاری نہیں کیے۔ مجھے علم ہے۔ جناب والا! جس وقت صوبہ سرحد میں عبوری آئین کے تحت حکومت چل رہی تھی تو non-prohibited bores کے لیے لائسنس جاری ہوتے تھے۔ ہمارے محترم وزیر داخلہ صاحب نے کئی جاسوں میں اپنی تقریروں میں واضح الفاظ میں کہا ہے کہ non-prohibited کو آپ کیا کہتے ہیں۔ میں تمہیں کاربائن کے لائسنس ایشو کروں گا، ۳.۳ کے لائسنس ایشو کروں گا اور انہوں نے جاری کئے ہیں۔

**Mr. Abdul Qaiyum Khan :** Point of Order, Sir. Under the existing law, the Federal Government has no power to issue licences for prohibited bore weapons. That is why, this Act has been brought. My learned friend says that I made a speech being a Minister knowing the law that I could issue the licence for Carbine.

**Mr. Shahzad Gul :** Under the Interim Constitution

میں نے بولا ہے۔

**Mr. Abdul Qaiyum Khan :** Even under the Interim Constitution, the Provincial Act, 1965 was enforced and the Federal Government has no power to issue licences. Ever now, it has no power unless this law is passed.

**جناب شہزاد گل :** تو یہ بری بات ہے کہ میں اس ہاؤس کے فلور پر ان اشخاص کے نام لوں جن کو اس عرصہ میں یہ لائسنس issue کیے گئے ہیں۔

**Mr. Presiding Officer :** Please confine yourself to the principles.

**جناب شہزاد گل :** میری گزارش یہی تھی کہ چونکہ یہ لائسنس برسراقتدار پارٹی کی صوبائی حکومتوں نے جاری کیے ہیں لہذا ساری ذمہ داری ان پر عائد ہوتی ہے۔ حزب اختلاف پر یہ ذمہ داری عائد نہیں ہوتی۔ جناب والا! اگر موجودہ وقت میں یہ قانون پاس ہو جائے تو یہ سراسر صوبائی خود مختاری کی نفی ہوگی۔ ہمیں یہاں ہر روز کہنا پڑتا ہے کہ صوبائی خود مختاری میں مداخلت ہو رہی ہے۔ آپ کہیں گے کہ یہ صوبائی خود مختاری کے ٹھیکے دار کیوں بن گئے ہیں۔ ہمیں بھی شرم محسوس ہوتی ہے لیکن آئین میں جو واضح درج شدہ اختیارات ہیں ان کو چھینا جا رہا ہے اور اس طرح صوبائی حکومتیں بے بس ہو کر رہ جائیں گی۔ جناب والا! اب اس سے قبل اس میں ایک exemption ممبران

[Mr. Shahzad Gul]

اسمبلی کے privileges ہیں۔ privileges کے تحت سنیٹروں کو نیشنل اسمبلی کے ممبروں کو اور صوبائی اسمبلیوں کے ممبروں کو اور انہوں نے ایکٹ بھی پاس کیے ہیں کہ ان کو exemption ہے۔

Mr. Presiding Officer : Not relevant, Sir.

Mr. Shahzad Gul : This is relevant, Sir. Exemption powers are now reserved or taken by the Federal Government.

اسٹنڈمنٹ آ رہی ہے۔

Mr. Presiding Officer : No, the privileges are affected by this.

جناب شہزاد گل : \*جناب والا ! یہاں جو exemption کے اختیارات ہوں گے وہ مرکزی حکومت کے ہوں گے۔ اب صوبائی اسمبلیوں کے ممبران جو ہیں ان کے جو privileges ہیں یا انہوں نے جو ایکٹ پاس کیے ہیں اور جو privileges ان کو اس کے ذریعے حاصل ہوئے ہیں اگر فیڈرل گورنمنٹ کے ہاتھ میں آ جائے تو وہ جو privileges کا ایکٹ ہے وہ بے معنی ہو جائے گا اور ممبران کے privileges متاثر ہوں گے۔ جناب والا ! یہ عوام کے مفاد میں بھی نہیں ہے۔ اگر کوئی شخص prohibited bores کا اسلحہ لینا چاہے تو اسے اسلام آباد آنا پڑے گا۔ یہاں آ کر اسے دفاتروں کے چکر کاٹنا پڑیں گے۔ ہمارے خان صاحب کے دفتر کا اسے پتہ نہیں ہوگا۔ پھر اس کو وہاں پر کوئی جانتا بھی نہیں ہوگا۔ تو اس طرح لائسنس کا حصول مشکل ہی نہیں بلکہ نا ممکن ہو جائے گا۔ یہ بھی عوام کے مفاد میں نہیں ہے۔ جناب والا ! میں نے کچھ ترامیم تجویز کی ہیں اور میں خان صاحب کی خدمت میں گزارش کرتا ہوں کہ وہ ان ترامیم کو قبول کر لیں۔ اس سے بل میں کافی ترتیب بھی آ جائے گی اور صوبائی اور مرکزی حکومتوں کے اختیارات بھی محدود نہیں ہوں گے اور یہ بل مفاد عامہ کے لیے بہتر ثابت ہوگا۔

Mr. Kamran Khan : \*There was some contradiction in the opening speech of the honourable Minister as on type. On one hand he said the Government now feels that prohibited bore weapons should be in the possession of defence forces only and on the other hand there is a provision in the Bill itself that the Federal Government will have the power to issue licences for prohibited bores. That means that the Federal Government's decision that the prohibited bore weapons should be with the defence personnel only, that is not served, and another thing is that in the Bill itself there is no provision as to the qualifications of persons to whom prohibited bore weapons would be issued by the Federal Government. Again, Sir, the general procedure is that if somebody applies for prohibited weapon, for that police report would be required. So, again the matter would be referred to the Provincial Government, otherwise

\*Speech not corrected by the honourable Senator.

on what basis the Federal Government would form an opinion whether a particular person is to possess weapon of prohibited bore or not? If at all the matter is to be referred to the Provincial police, why not give the same authority to the Provincial Government? Another thing, Sir, is that the powers of the Provincial Government are being taken away in this way, so how could the aims and objects of this Bill are to be achieved? Supposing the Government, the Federal Government of Pakistan, wants to create a law and order situation in the Province—I am not talking of this present Government; the relations between this Government and the Provincial Governments are by and large good, but a situation may arise where the Federal Government would start issuing licences indiscriminately to people in certain Provinces that would create a law and order situation beyond the control of the Provincial Government—what will happen? Now, Sir, sometimes when we come here to raise a question about a particular law and order situation we are told by the honourable Minister for Home Affairs in particular that this is a provincial matter but now the Federal Government itself is receiving powers to issue licences and of creating difficulties for the Provincial Government and moreover, Sir, the Provincial Governments are also elected by the people; they are not nominees of the Federal Government. So, if the Federal Government has the confidence, has the wisdom, has the foresight to issue, to know, to judge as to who is a fit person for possessing weapons of prohibited bore, similarly the Provincial Government, which is nearer home to these people, should know much more about the affairs of the people and about the persons. So, they also should have powers to issue licences of prohibited bores. Sir, in this Bill, the only object that is going to be achieved is to incapacitate the Provincial Governments and to make and reduce their position to those of Municipalities or District Board. That is the idea. The other day we heard the very learned speech from the Prime Minister and he said on the floor of this House that he was a great exponent of Provincial autonomy. Is this the Provincial Autonomy that we are having that the Provincial Government does not have the right to issue licences for prohibited bores. With these words I conclude.

**Mr. Presiding Officer : Mr. Sher Mohammad.**

جناب شیر محمد خان : \*جناب والا ! میں اس بل کی حمایت کرتا ہوں اور ساتھ ہی ساتھ میں اپوزیشن سے اپنے محترم دوست شہزاد گل اور کامران خان کے دلائل کے ساتھ اتفاق نہیں کرتا۔ شہزاد گل صاحب نے اپنی تقریر میں کہا کہ جس وقت سرحد اور بلوچستان میں نیپ اور جمعیت العلماء اسلام کی مخلوط حکومتیں قائم تھیں وہ مستقل دستور کے تحت نہیں تھیں وہ حکومتیں عبوری دستور کے تحت کام کرتی تھیں اور عبوری دستور کے تحت انہیں Prohibited Bore کے لائسنس جاری کرنے کا اختیار نہیں تھا یہ اختیار مستقل دستور کے تحت بقول ان کے اس وقت کی صوبائی حکومتوں کو ملا ہے جو مستقل دستور کے تحت چل رہی ہیں اور ان کے قول کے مطابق جب مستقل دستور کے تحت صوبائی حکومتوں کو یہ حق ہے تو صوبوں میں حکومتیں بھی Peoples Party کی مخلوط حکومتیں ہیں تو اگر انہوں نے Prohibited Bore کے لائسنس جاری کیے تو یہ

\*Speech not corrected by the honourable Senator.

[Mr. Sher Mohammad Khan]

ان کا گناہ ہے۔ یہاں بل کا مقصد یہ نہیں ہے۔ چاہے کسی صوبے میں Peoples Party کی حکومت ہو یا مخلوط حکومت یا کسی صوبے میں Peoples Party کی Opposition کی حکومت ہو تو اگر Peoples Party کی حکومت ہو تو اس کو یہ اختیار بھی نہ دیا جائے کہ غلطی کو غلطی کہہ سکے۔ مقصد صرف یہ ہے کہ جو اسلحہ جات پاکستان کی Armed Forces کے ساتھ ہوا کرتے ہیں اور لازمی طور پر ہونے چاہئیں تو اس کو اس طریقے پر رکھا جائے کہ Armed Forces کے مقابلے میں Civilian استعداد میں نہ آئے۔ یعنی Civilian میں اتنی استعداد نہ پیدا ہو جائے کہ وہ Armed Forces کا مقابلہ کرنے لگیں اور Armed Forces بے کار رہ جائیں اور جناب والا! نیپ اور جمیعت کی مخلوط حکومتیں جس وقت سرحد اور بلوچستان میں تھیں تو انہوں نے prohibited bore کے Licences جس انداز میں جاری کیے اس سے آپ بخوبی اندازہ لگا سکتے ہیں کہ اگر اس وقت ان کو یہ اختیار ہوتا کہ وہ Prohibited bore کے لائسنس بھی جاری کرتے تو اس وقت پاکستان کی Armed Services کے ساتھ اتنا اسلحہ نہ ہوتا جتنا کہ سرحد اور بلوچستان کے عوام کے ساتھ prohibited bore اسلحہ ہوتا تو یہ توازن قائم نہ رہ جاتا۔ ہم نہیں کہتے کہ اس سے ملک دشمن فائدہ نہیں اٹھاتے یہ نہیں کہ ہم کسی کو کہتے ہیں کہ ملک دشمن لیکن ملک کے دشمن ہوا کرتے ہیں اور ملک کے دشمن ہوتے ہیں اور ملک کے دشمن موجود ہیں اور اس سے انکار نہیں کہ ہر ملک میں دشمن ہوتے ہیں۔ اب جناب والا! اس بنیاد پر کہ Prohibited bore کے لائسنس جاری کرنے کا صرف وفاقی حکومت کو حق ہے اس مقصد کے لیے کہ Prohibited bore کے Licence اس انداز سے اس کثرت سے جاری نہ ہوں کہ ہر کسی کے پاس G-3 کا لائسنس ہو، ہر کسی کے پاس سٹین گن کا لائسنس ہو، ہر کسی کے پاس کاربائن کا لائسنس ہو اور جو اسلحہ بہاری پاکستان ملٹری، پاکستان نیوی اور پاکستان ایئر فورس کے پاس ہے وہ بہارے گھروں میں آ جائے۔ اگر کسی کو اس اسلحہ کے ساتھ جو کہ پاکستان کی Armed Forces کے پاس ہے اس سے محبت ہے خواہ وہ صوبہ سرحد سے ہو، پنجاب سے ہو یا سندھ اور بلوچستان سے ہو۔ تمام جوانوں کے لیے Armed Forces کے دروازے کھلے ہوئے ہیں۔ جوان جا کر Armed Forces میں بھرتی ہو جائیں۔ وہاں بہترین سے بہترین اسلحہ مفت ملے گا۔ اپنا پیسہ دے بغیر فوجی بن سکتا ہے اور پھر G-3 یا سٹین گن کا لائسنس حاصل کرنے کی ضرورت باقی نہیں رہتی۔ یہ سوال کہ یہ صوبائی خود مختاری کو واپس لینے کے مترادف ہے اور صوبائی حکومتیں ڈسٹرکٹ

بورڈ یا میونسپل کمیٹی کی حد تک محدود ہو جائیں گی ، میں بڑے احترام سے کہوں گا کہ یہ غلط ہے ۔ اس میں صوبائی خود مختاری کا کوئی سوال نہیں ۔ یہ Concurrent List پر ہے اور صوبوں اور مرکز دونوں کو اختیار حاصل ہے اور Armed Forces کے اسلحہ کے لیے صوبے لائسنس جاری کریں تو مرکز کو بھی حق ہو کہ وہ اپنی طرف سے چیک رکھے کہ تمام لوگ Prohibited bore کے اسلحہ سے مسلح نہ ہوں ۔ اگر ملک کے تمام افراد Prohibited bore سے مسلح ہوں تو Armed Forces اس ملک کا دفاع نہیں کر سکتیں ۔ سرحدوں پر متعین ہوتی ہیں تاکہ وہ دشمن کا مقابلہ کر سکیں ۔ اگر ملک کے تمام افراد کے پاس Prohibited bore کے لائسنس موجود ہوں تو Armed Forces کی تمام تر توجہ داخلی حالات پر ہوگی کہ کہاں کہاں اور کن کن لوگوں کے پاس G-3 ہے اور کہاں کہاں کن کن لوگوں کے پاس سٹین گن ہے ؟ جناب والا ! اس مقصد کے لیے یہ بل پیش کیا گیا ہے ان الفاظ کے ساتھ میں بل کی پرزور تائید کرتا ہوں ۔

Mr. Presiding Officer : Mohammad Hashim Ghilzai.

جناب محمد ہاشم غلزی : جناب چیئرمین ! میں اس بل کی چند وجوہات کی بناء پر مخالفت کرتا ہوں اور ساتھ ہی ساتھ میں مخالفت برائے مخالفت نہیں کروں گا ۔ اس میں اگر ایک اچھی بات کی گئی ہے تو وہ یہ ہے کہ اس میں West Pakistan کا لفظ نکال کر پاکستان کر دیا گیا ہے ۔ یہ انہوں نے اچھا کام کیا ہے ۔ اس میں کچھ باتیں کام کی بھی ہیں اور کچھ خامیاں بھی ہیں ۔ ہمارے محترم وزیر صاحب نے فرمایا ہے کہ چونکہ یہ بل نیشنل اسمبلی سے پاس ہوا ہے ، اس لیے یہاں پر بحث نہیں ہونی چاہیے ۔ میں یہ عرض کروں گا کہ عام طور پر اس قسم کی باتیں سامنے آتی رہتی ہیں جن کی کوئی بنیاد نہیں ہوتی ہے ۔ اگر قومی اسمبلی کے پاس کردہ بل پر ہم بحث نہیں کر سکتے تو اس ایوان کو معرض وجود میں لانے کی کیا ضرورت تھی ؟ میری عرض یہ ہے کہ اس پر غور فرمائیں ۔ اسمبلی کے پاس کردہ بل کو ہم آنکھیں بعد کر کے پاس نہیں کر سکتے ۔ کچھ ایسی باتیں رہ جاتی ہیں جن پر بحث نہیں کی گئی تھی ۔ ان کو سینٹ میں زیر بحث لایا جاتا ہے ۔ ہمیں دلائل پیش کرنے دیں ۔ اس کے بعد ان کی اکثریت ہے یہ بل پاس کرا لیں ۔ لیکن اس کے ساتھ ساتھ مجھے خدشہ ہے اور اس پر مجھے اعتراض یہ ہے exclusive rights جو ہیں ، وہ فیڈرل گورنمنٹ لینا چاہتی ہے ۔ مجھے ان الفاظ کے اوپر سخت اعتراض ہے ۔ جب ہم exclusive اختیارات ، مکمل اختیارات مرکز کو دینے کے لیے تیار ہیں تو پھر صوبوں کا ذکر کرنا ،

[Mr. Mohammad Hashim Ghilzai]

Concurrent List کا ذکر کرنا یا صوبائی خود مختاری کا ذکر کرنا بالکل بے معنی رہ جاتا ہے۔ ہمارے آئین کے پارٹ ۲ میں فیڈرل گورنمنٹ ہے جو ہم نے منظور کیا ہوا ہے۔ پارٹ ۱ کے دو حصے ہیں۔ ایک حصہ جو ہے وہ فیڈرل گورنمنٹ کے ہاتھوں میں ہے۔ دوسرا حصہ Concurrent List میں آتا ہے جس میں صوبوں کو زیادہ اختیارات دیے گئے ہیں۔ پہلے حصے میں صوبوں کو زیادہ اختیارات تفویض ہوئے ہیں۔ دوسرے حصے میں مرکز کو زیادہ اختیارات تفویض کیے گئے ہیں۔ اس بل کو لانا قانونی طور پر درست نہیں ہے کیونکہ اس بل کے لانے سے پہلے آئین میں ترمیم لانے کی ضرورت ہے۔ اس میں صوبوں کے اختیارات جو ہیں۔ جو Concurrent List میں مرکزی حکومت نے صوبوں کو دیے ہیں بالکل حذف کر دیئے گئے ہیں۔ جناب والا! پہلے اس میں ترمیم لائیں، پھر بل پیش کریں۔ یہ جناب والا! قانونی طور پر اعتراض ہے۔ محترم وزیر صاحب نے وہ اختیارات جو Concurrent List میں ہیں وہ بھی صوبوں سے چھین لیے ہیں۔ پہلے اس میں ترمیم لائیں، پھر اس پر کام کریں۔ Prohibited bore میں کہا جا سکتا ہے۔ کہ فیڈرل حکومت کو اختیارات ہونے چاہئیں۔ Prohibited bore کے لائسنس جو ہیں وہ مرکزی حکومت دے۔ مگر non-prohibited bore میں صوبوں کے جو اختیارات ہیں، وہ بھی لے رہے ہیں تو پھر صوبوں کے پاس کون سے اختیارات رہ جاتے ہیں؟ Aims and objects دیکھ لیں۔ Aims and objects میں لکھا ہوا ہے اگر یہ دونوں اختیارات لے رہے ہیں تو صوبوں کو رکھنے کا مقصد کیا ہے؟ یہ میری سمجھ میں نہیں آ سکا۔ Prohibited bore کے اختیارات تو لے لیے non-prohibited bore کے کیوں لے رہے ہیں؟ یہ بالکل غلط ہے۔ آئین کی روح اس کی اسپرٹ کے خلاف ہے۔ آئین میں ترمیم کی ضرورت ہے۔ پھر یہ بل لانا چاہیے۔ پھر اس کے بعد اس بل کو لیں۔ صوبائی اختیارات Concurrent List کے اختیارات کو پہلے ہی اپنے ہاتھ میں نہیں لینا چاہیے۔ آئین کی دفعہ ۱۴۷ اس پر حاوی ہوتی ہے۔ اس قسم کے اختیارات مرکز کو صوبوں سے نہیں لینے چاہئیں ورنہ Concurrent List کا سوال ہی پیدا نہیں ہوتا۔ جناب والا! یہ صوبوں کا بنیادی حق ہے۔ مرکزی حکومت کے اپنے اختیارات ہیں۔ فیڈرل حکومت کا حصہ واضح ہے۔ Concurrent List سے مرکز کو اختیارات دینے کا سوال ہی پیدا نہیں ہوتا۔ میں ان گذارشات کے ساتھ اس بل کی مخالفت کرتا ہوں۔

Mr. Abdul Qaiyum Khan : \*Sir I have listened to the speeches made by the honourable members of the Opposition and I think the speech of the Leader

\*Speech not corrected by the honourable Minister.

of the Opposition was the most reasonable but he has misunderstood the legal position. I do not blame him for this. I will try my best to explain the legal position.

First of all I want to make one thing very clear and I hope that my friends who made speeches opposing the Bill will realize that under the present law the provinces have the power to issue licences for prohibited bore and non-prohibited bore and the Centre has no power at all. This is the position at the present which has necessitated the bringing of this Bill. I would request them to read the 1965 Ordinance which is the law of the land. The power to issue licences vests entirely in the provincial Government and the federal Government has no powers at all.

Now, I will give the honourable House a little background of the case. Prior to the coming into force of the Constitution of 1962 the subject of 'arms' was on the legislative list of the Central Government. After the promulgation of this Constitution arms became a provincial subject leading to the issue of West Pakistan Arms Ordinance 1965. It is still the law of the land. Then there had been changes in the Constitution but the Arms Act is the same. The 1965 Arms Ordinance remains untouched. This Ordinance repealed all provisions of the Central Arms Act of 1878. Under the Interim Constitution of 1972 the subject of fire arms and ammunition became a central subject. It became entirely the central Government subject but no law was passed. No changes in the law were made. However, it is ultimately included in the Concurrent List of the permanent Constitution of 1973. Now, I would request my friends to mark these words very carefully. Presently the executive authority for the issuance of arms licences rests with the provinces who may grant licences for any type of weapon irrespective of calibre. The Federal Government has no legal powers to grant arms licences or to prohibit their use. This is the present position. Whatever may be the constitutional position the 1965 Ordinance holds the field. The Provincial Governments have the power to issue licences for prohibited and non-prohibited bore. The Federal Government has no legal power to grant arms licence or to prevent their issue. It can at best issue administrative instructions to the provincial Governments with regard to the issue or restrictions on the issue of arms licences of prohibited or non-prohibited bore. On 26th October, 1970 the Federal Government issued a directive to the provinces not to issue licences for prohibited bores without the Federal Government's approval. There are, however, reasons to believe that this directive is not being followed.

Since the subject of arms ; fire arms and ammunition is on the concurrent list of the permanent Constitution of 1973, it is proposed to amend the West Pakistan Arms Ordinance of 1965 authorising the Federal Government to exercise control over the issue of licences of a particular type. We have obtained legal advice, which is to the effect, that the Federal legislature is competent to make laws with respect to the subject of arms, fire arms and ammunition which to the extent of repugnancy will prevail over the Provincial law wherein the Federal Government can reserve the executive authority over the subject to itself. Now, there is no question of encroachment of the Provincial autonomy because as I have explained, the position to my learned friend, that the law on the arms is the 1965 ordinance and it must have come as the pleasant news to them. Probably they have not studied it that under that law the power to issue licences for prohibited and non-prohibited bore vests solely in the provincial Government and the Federal Government has no power either to issue a licence for prohibited bore or non-prohibited bore. That is the position under the existing ordinance. Now, we are changing it

[Mr. Abdul Qaiyum Khan]

because the arms is on the concurrent list and under Article 143 there is no question of invasion of provincial autonomy, far it be from us, to invade provincial autonomy. But where there is a concurrent power, then Article 143 says :

“If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to any of the matters enumerated in the Concurrent Legislative list, then the Act of Parliament... shall prevail...”

There is a provincial law which vests power to issue licences for prohibited and non-prohibited bores, both, in the Provincial Government, and now we are passing a law to take exclusive power for the Federal Government for issuing prohibited bore licences which even the Leader of the Opposition very reasonably and rightly conceded would be reasonable to vest in the Federal Government. We are not depriving the Provincial Governments of issuing licences for non-prohibited bore weapons. I want to disabuse the mind of the honourable Members on that side and would point out that only to the extent of repugnancy under Article 143, the Federal law will over-ride the provincial law. I did not say that the prohibited bore weapons should be exclusively in the possession of the Defence forces. No. I said that a very large number of prohibited bore weapons in the possession of civilians is not in the interest of the country. Of course, a limited number will be issued or continue to be issued and the people having prohibited bore weapons, we have no intention of cancelling their licences unless somebody commits an offence and goes to the court and the court says that he has committed an offence and it forfeits the licence.

One of my friends also said that the Provincial Government will be in great difficulty. He said that the police will have to come and search me and my office and all the rest of it. Well, in advancing arguments it should not be assumed that the Interior Minister will remain Interior Minister for ever. Naturally it is the institution which we have to consider, not the individual. The individuals just come and go. Certainly, we will have rules under which when somebody applies from a Province he would be given a licence for the prohibited bore weapon. Naturally the views of the Provincial Government would be sought and their recommendations would carry great weight. After all the Provincial Government is the proper authority to be consulted and, therefore, my learned friend should not entertain any apprehension that it will be sent to the police. We have done away with the police in respect of passports and many other things. The Intelligence agency and the police have nothing to do with passports. They have nothing to do with the identity cards. We have kept them clean put of it. Therefore, the Provincial Government, the properly elected Provincial Government will send recommendation and their recommendation will carry weight. I have already answered the questions raised by the Leader of the Opposition. I have made it quite clear to him that the Provincial Government will have power to issue licences for non-prohibited bore weapons within the province.

Then it has been said that this Bill seeks to amend the Constitution. If it were so, being *ultra vires* of the Constitution this Bill would be a dead letter. But this Bill as I have said is in conformity with the Constitution. There are certain subjects which have been exclusively assigned to the Provinces

and far it be from us to invade into those spheres which have been handed over to the Provinces. There are spheres and there are subjects which are the exclusive concern of the Federal Government and the laws have been very clearly drawn. But there are subjects of the concurrent list and on the concurrent list both the Provinces and the Federal Government have the power to legislate but if there is an inconsistency between the two, then under Article 143 of the Constitution where there is repugnancy the federal law shall have precedence over the Provincial law. Then, there is no question of dispossessing any person. I assure my friends opposite that there will be complete uniformity of treatment with all the Provinces. The Federal Government cannot discriminate in the matter of arms licences between one province and another. We respect the wishes of the Provinces. At present the Provinces of Punjab and Sind are of the view that no arms licences should be issued but in the N.W.F.P. if somebody goes there and tells the people that there will be no arms licences, I think, he will be mobbed by the people. Just for the sake of information, I would say that the people generally take arms licences for the sake of prestige. Suppose one hundred licences are sanctioned to be issued but only five persons would turn up to actually get them issued. After all it is expensive to purchase arms. Very few people have the means. Who will go and spend a huge sum for the purchase of these fire arms and cartridges? Therefore, I want to assure my friend that the Provincial Government will have the power to issue non-prohibited bore licences and the Federal Government will have the exclusive power for issuing prohibited bore licences, and this would be the law. Why the necessity for this law has arisen, I again venture to repeat with all the emphasis at my command that in spite of the Constitutional changes, the law on the arms is the 1965 ordinance and under that ordinance the Provincial Government have the sole right to issue licences for prohibited bore and non-prohibited bore and the Federal Government has no power under that law to issue licences either for prohibited bore or non-prohibited bore. Hence the necessity. That is all I have to say.

**Mr. Shahzad Gul :** Point of order, Sir. Will the honourable Minister also explain the statement he has made that there is no Central law in respect of arms.

**Mr. Presiding Officer :** That is no point of order.

**Mr. Shahzad Gul :** I am coming. Please listen to me. This is not correct. This is an amendment in the Provincial Act. So, Sir, they should bring a fresh comprehensive Bill so that the repugnancy is removed between the Provincial law and the Federal law. This provision hits the Provincial law on the subject.

**Mr. Presiding Officer :** I put the question to the House.

The question is :

“That the Bill further to amend the West Pakistan Arms Ordinance, 1965 [The West Pakistan Arms (Amendment) Bill, 1974], as passed by the National Assembly, be taken into consideration”.

*(The motion was adopted)*

**Mr. Presiding Officer :** Amendments. There are no amendments to Clause 2, 3 and 4 of the Bill.

[Mr. Presiding Officer]

The question is :

“That Clauses 2, 3, and 4 form part of the Bill.”

(The motion was adopted)

Mr. Presiding Officer : Now, We come to Clause 5. Mr. Shahzad Gul.

Mr Shahzad Gul : Sir, I beg to move :

“That in Clause 5 of the Bill, sub-section (2) of the proposed section 11A be omitted and subsequent sub-sections renumbered accordingly.”

Mr. Abdul Qaiyum Khan : Sir, it defeats the very purpose of the Bill. We will have the exclusive power and now the honourable Member wants to blow this up.

Mr. Shahzad Gul : I will read out the other because it is also related. I beg to move :

“That in Clause 5 of the Bill, in sub-section (3) of the proposed section 11A between the words “for” and “non-prohibited” the words “prohibited and” be inserted.”

Mr. Abaul Qaiyum Khan : You are not moving the second.

جناب شہزاد گل : وہ تو اس طرح ہو گیا کہ سب کلاز ۲ کو کلاز ۲ میں لایا گیا ہے۔

“Federal Government shall have the power to issue licences for prohibited and non-prohibited bore weapons valid for the whole or any part of Pakistan”.

فیڈرل گورنمنٹ کو سارے پاکستان میں لائسنس جاری کرنے کے اختیارات حاصل ہو جائیں گے سب کلاز ۲ میں amendment ہے۔ جناب والا !

Mr. Shahzad Gul : Sir, I beg to move :

“That in Clause 5 of the Bill, sub-section (4) of the proposed section 11A, be substituted by the following, namely :

“(4) The Provincial Government shall have the power to issue licences for prohibited and non-prohibited bore weapons valid for the whole or any part of the Province”.

جناب شہزاد گل : جناب والا ! صوبائی حکومتوں کو صرف صوبہ میں لائسنس جاری کرنے کے اختیارات حاصل ہوں یہ بڑی reasonable ترمیم ہے اسے قبول کر لیں۔

Mr. Abdul Qaiyum Khan : Sir, I oppose them. They are against the Bill.

All these amendments in fact are in complete opposition to the Bill.

Mr. Presiding Officer : Let him move. Please move all these.

Mr. Shahzad Gul : I have already moved Sir.

Mr. Presiding Officer : Motions moved :

“That in Clause 5 of the Bill, sub-section (2) of the proposed section 11A be omitted and subsequent sub-sections renumbered accordingly.”

“That in Clause 5 of the Bill, in sub-section (3) of the proposed section 11A between the words “for” and “non-prohibited” the words “prohibited and” be inserted.”

“That in Clause 5 of the Bill, sub-section (4) of the proposed section 11A, be substituted by the following, namely :

“(4) The Provincial Government shall have the power to issue licences for prohibited and non-prohibited bore weapons valid for the whole or any part of the province.”

Mr. Abdul Qaiyum Khan : Opposed.

جناب شہزاد گل : \*جناب والا ! جس طرح کہ میں پہلے بھی گزارش کر چکا ہوں کہ concurrent list میں صوبائی حکومتوں کو تمام اختیارات حاصل ہیں - اور اس پر محترم وزیر داخلہ صاحب نے خود اتفاق بھی کیا ہے اور اب یہاں اس ایک ایکٹ کے ذریعے صوبائی حکومتوں کے حقوق کو چھینا جا رہا ہے جو کہ سراسر ان کی spirit کے خلاف ہے غیر جمہوری ہے اور غیر آئینی ہے اور دونوں کے درمیان تصادم کا سبب ہے - جناب والا ! میں نے ان دونوں کے درمیان تصادم پیدا نہ کرنے کے لیے یہ تجویز کیا ہے کہ مرکز کو prohibited اور non-prohibited لائسنس جاری کرنے کے اختیارات سارے پاکستان میں حاصل ہوں اور وہ کسی خاص علاقے یا کسی بھی شخص کو چاہے لائسنس جاری کر سکتا ہے اور صوبائی حکومتوں کو یہ اختیار حاصل ہو صوبہ کی حدود کے اندر کہ وہ prohibited اور non-prohibited bores کے لائسنس جاری کر سکے - اس طرح مرکز اور صوبوں کے درمیان تصادم پیدا نہ ہوگا اور نہ ہی spirit تباہ ہوگی - جناب والا ! یہ ترمیم نہ رکھی گئیں تو اس طرح اور بھی مشکلات پیدا ہوں گی - اس ایکٹ کے تحت prohibited licence جو ہے چاہے پنجاب میں یا سرحد میں ہو وہ جاری نہیں کیا جا سکے گا - اس کا transfer نہیں ہو سکے گا - فرض کیا اگر باپ مر جاتا ہے اس کا لائسنس اس

[Mr. Shahzad Gul]

کے بیٹے کو transfer کرنا ہوتا ہے تو پھر صوبائی حکومتوں کو تو یہ اختیار نہیں ہے۔ اسی طرح اگر ایک بھائی دوسرے بھائی یا باپ بیٹے کے نام Licence کرانا چاہتا ہو تو وہ پھر مرکز کے پاس آئے گا۔ جناب والا! اگر فیڈرل گورنمنٹ یہ چاہتی ہے کہ prohibited لائسنس Cancel کر دیے جائیں تو ہمارے سر آنکھوں پر ہم تیار ہیں اگر حکومت کو کوئی خطرہ ہے یا خان صاحب کو خطرہ ہے تو یہ اعلان کر دیں کہ فلاں تاریخ تک prohibited bore اور non-prohibited bore ہتھیار جمع کرا دیں۔ اگر جناب والا! ملک کی سالمیت کو اس سے کوئی خطرہ ہے تو ہم تعاون کے لیے تیار ہیں؟ تو اصل بات یہ ہے کہ یہ اختیارات کس کے ہاتھ میں ہیں۔ اور یہ اختیارات جو ہیں وہ فیڈرل گورنمنٹ صوبوں سے لینا چاہتی ہے۔ اس وجہ سے اس معزز ایوان سے میری گزارش یہ ہے کہ جو ترمیم میں نے پیش کی ہے اس سے آئین کے تقاضے پورے ہوتے ہیں اور اسے منظور کیا جائے۔ میرے خیال میں یہ بل عوام کے لیے کافی فائدہ مند ثابت ہوگا۔

Mr. Kamran Khan : May I have the permission to speak ?

Mr. Presiding Officer : Yes.

Mr. Kamran Khan : Sir, my honourable friend, Mr. Shahzad Gul, has made an offer that all the prohibited bore licences should be cancelled. I think, there should be no two opinions on this. Not only that the previous licences should be cancelled but in future also non-prohibited bore licences should be issued to any person, if at all, as laid down in the objects and reasons of the Bill. If you really want to finish this menace, finish it for all times to come, and there should be no licences whatsoever issued to any person, but if you pass this Bill the Central Government has the power to issue licences. I am sorry, Sir, that power of the Central Government is most likely to be misused for political purposes and licences would be issued to their favourites. So, Sir, I would appeal to the honourable Members of the House to press that there should be no licences given to any person of prohibited bore. Thank you, Sir.

جناب عبدالقیوم خان : اب وہ یہ کہتے ہیں کہ کسی کو لائسنس نہ ملے ، یہ دوسرا انداز ہے بل کی مخالفت کرنے کا۔

Mr. Presiding Officer : I put the question to the House.

The motion moved is :

“That in Clause 5 of the Bill, sub-section (2) of the proposed section 11A be omitted and subsequent sub-sections renumbered accordingly.”

(The motion was negatived)

**Mr. Presiding Officer :** The question is :

“That in Clause 5 of the Bill, in sub-section (3) of the proposed section 11A between the words “for” and “non-prohibited” the words “prohibited and” be inserted.”

*(The motion was negatived)*

### POINT OF ORDER

**Mr. Kamran Khan :** Sir, can the honourable Minister-in-charge of the Bill, who is not a Member of this House, give vote ?

**Mr. Presiding Officer :** No.

**Mr. Kamran Khan :** But he has said, ‘no’.

**Mr. Presiding Officer :** It would not be counted.

### THE WEST PAKISTAN ARMS (AMENDMENT) BILL, 1974

**Mr. Presiding Officer :** Next amendment.

The question is :

“That in Clause 5 of the Bill, sub-section (4) of the proposed section 11A, be substituted by the following, namely :—

“(4) The Provincial Government shall have the power to issue licences for prohibited and non-prohibited bore weapons valid for the whole or any part of the Province.”

*(The motion was negatived)*

**Mr. Presiding Officer :** Next.

The question is :

“That Clause 5 stands part of the Bill.”

The motion was carried.

**Mr. Presiding Officer :** Next, Clause 6.

**Mr. Shahzad Gul :** Sir, I beg to move :

“That Clause 6 of the Bill be substituted by the following, namely :—

“6. *Amendmet of section 27 West Pakistan Ordinance No. XX of 1965.*—In the said Ordinance, in section 27, for the word “Government” the following words shall be substituted, namely :—

[Mr. Shahzad Gul]

“The Federal Government for the whole or any part of Pakistan and a Provincial Government for the whole or any part of the Province.”

Mr. Abdul Qaiyum Khan : Opposed.

Mr. Presiding Officer : The amendment moved is :

“That Clause 6 of the Bill be substituted by the following, namely :—

“6. *Amendment of section 27 West Pakistan Ordinance No. XX of 1965.*—In the said Ordinance, in section 27, for the word “Government” the following words shall be substituted, namely :—

“The Federal Government for the whole or any part of Pakistan and a Provincial Government for the whole or any part of the Province.”

Mr. Abdul Qaiyum Khan : Opposed.

جناب شہزاد گل : جناب والا ! اس میں جہاں تک کسی شخص کے exemption کا تعلق ہے تو اب کسی شخص کو arms کے لائسنس سے exempt نہ کیا جا سکے گا۔ وہ میں پہلے بھی گزارش کر چکا ہوں۔ صوبائی حکومتوں نے بل پیش کیے ہیں۔ صوبائی اسمبلیوں کے ممبران کے حقوق نہیں۔ وہ یہاں لائسنس حاصل کرنے سے exempt ہیں۔ ان کو اپنے حقوق کے تحت دو، دو تین، تین یا پانچ، پانچ جہاں تک سرحد اسمبلی کا مجھے پتہ ہے ان کو اسلحہ رکھنے کے اختیارات حاصل ہیں۔ وہ بھی اب موجودہ ترمیم میں گورنمنٹ لے رہی ہے۔ وہ ختم ہو جائیں گے پھر وہ مرکز سے رجوع کریں گے کہ ان کے صوبائی اسمبلی کے ممبران کے لیے ایسا قانون بنایا جائے جو لائسنس حاصل کرنے سے exempt ہو سکیں۔ ایک تو یہ ہے۔ دوسرا یہ کہ جناب والا! مشکلات پیدا ہوتی ہیں۔ بعض اوقات صوبوں میں تو صوبائی حکومتوں کو بھی اپنے صوبہ کے اندر یا صوبہ کے کسی علاقہ میں اگر وہ ان سے لائسنس حاصل کرنے سے exempt کرتے ہوں، یا اسلحہ کے بغیر لائسنس دینے سے exempt کر سکتے ہوں، تو اس وقت حکومت موجودہ amendment سے سارے اختیارات اپنے ہاتھ میں لے رہی ہے۔ تو میری گزارش یہ ہے کہ مرکز کو اب یہ اختیارات ہیں اور صوبوں کو بھی۔۔۔۔۔

جناب عبدالقیوم خان : ان کے تمام شکوک جو ہیں ان کو رفع کرنے کے

لیے میں نے انہیں بڑی مؤثر دلیلیں دی ہیں۔ پچھلے سال نیپ کی گورنمنٹ بنائی گئی۔  
(مداخلت)

جناب عبدالقیوم خان : تین مہینوں میں سب کچھ جوں کا توں رکھا ہے۔  
کسی کو victimize نہیں کیا تو آپ مرکزی گورنمنٹ سے کیوں توقع کرتے ہیں کہ وہ ایسے چھوٹے کام کرے گی؟ ہم اس لیے بھی یہ اختیارات لیتے ہیں کہ سارے صوبوں میں uniformity ہو۔

(At this stage the Chair was vacated by Mr. Presiding Officer and occupied by Mr. Chairman)

Mr. Kamran Khan : The last amendment is to be put to vote.

Mr. Chairman : Has it been debated ?

Mr. Kamran Khan : It has been debated.

Mr. Chairman : The question before the House is :—

“That Clause 6 of the Bill be substituted by the following namely :—

“6. Amendment of section 27, West Pakistan Ordinance No. XX of 1965.—In the said Ordinance, in section 27, for the word “Government” the following words shall be substituted, namely :—

“The Federal Government for the whole or any part of Pakistan and a Provincial Government for the whole or any part of the Province.”

(The motion was negatived)

Mr. Chairman : The question is :

“That Clause 6 forms part of the Bill.”

(The motion was adopted)

Mr. Chairman : The question is :

“That Title, preamble and Clause I from part of the Bill.”

(The motion was adopted)

Mr. Abdul Qaiyum Khan : Sir, I beg to move :

“That the Bill further to amend the West Pakistan Arms Ordinance, 1965 [The West Pakistan Arms (Amendment) Bill, 1974], as passed by the National Assembly, be passed.”

[Mr. Rao Abdus Sttar]

اس بل پر صرف ہوا ہے۔ یہ بل West Pakistan Arms Ordinance 65 میں ترمیم کرنا تھا اس بل کا صرف مقصد یہ تھا کہ مرکزی حکومت Prohibited bore کے لائسنس issue کرے۔ جناب والا! اس کے تحت Non-prohibited Bore کے دینے کا اختیار بھی مرکزی حکومت کو ہوگا اور وہ ان کو Imee کر سکتی ہے۔ لیکن جو اس کی وجوہات بنائی گئی ہیں کہ حالات ایسے پیدا ہو جائیں گے کہ Hanti-social Elements کے پاس لائسنس عام ہو گئے اور وہ قانون شکنی کے مرتکب ہو رہے ہیں، جرائم عام ہوتے ہیں، قتل کی وارداتیں عام ہوتی ہیں۔ ان چیزوں کو ختم کرنے کے لیے یہ بل ایوان میں لایا گیا ہے اس پر کافی بحث ہو چکی ہے۔ میں ہاشم صاحب کو یقین دلاتا ہوں کہ یہ مفاد عامہ کے لیے ہے اور منسٹر ان اختیارات کو ناجائز استعمال نہیں کرے گا یہ آئین کے مطابق ہوگا اور یہ Prohibited کے اختیارات منسٹر کے پاس آجائیں گے تو یہ اچھے آدمیوں کو اور جو اہل آدمی ہوں گے ان کو Non-prohibited bore کے لائسنس issue کئے جائیں گے اور اس سلسلے میں انشاء اللہ کوئی غلط فہمی نہیں ہوگی اور انشاء اللہ ایسے حالات پیدا نہیں ہوں گے۔ ان وجوہات کی بنا پر میں جناب والا سے درخواست کروں گا کہ اس کو منظور کیا جائے۔

**Mr. Chairman :** The question is :

“That the Bill further to amend the West Pakistan Arms Ordinance, 1965 [The West Pakistan Arms (Amendment) Bill, 1974], be passed.”

*(The motion was adopted)*

**Mr. Chairman :** Now, next Bill is with regard to the People's Own Open University at Islamabad. Mr. Pirzada is not here.

**Mr. Abdul Qaiyum Khan :** Sir, I have been asked to move it. Should I move it ?

**Mr. Chairman :** Yes.

### THE PEOPLE'S OPEN UNIVERSITY BILL, 1974

**Mr. Abdul Qaiyum Khan :** Sir, I beg to move :

“That the Bill to provide for the establishment of a People's Open University at Islamabad [The People's Open University Bill, 1974], as passed by the National Assembly, be taken into consideration.”

**Mr. Chairman :** Motion moved :

“That the Bill to provide for the establishment of a People’s Open University at Islamabad [The People’s Open University Bill, 1974], as passed by the National Assembly, be taken into consideration.”

**Mr. Shahzad Gul :** Opposed Sir.

جناب والا ! میں نے ایک ترمیم دی تھی - وہ Circulate نہیں ہوئی -  
 کمیٹی کو refer کرنے کے لیے تحریک تھی - اب معلوم نہیں کہ خواجہ صاحب  
 کا نام غلط چھپ گیا ہے یا کیا وجہ ہے ؟

جناب چیئرمین : وہ سائیکلو اسٹائل ہو رہی ہے -

(Interruptions)

All right. You can move it orally. Your amendments is being cyclostyled but in the meantime you can move your amendment orally.

جناب شہزاد گل : اس بل کو مجلس قائمہ کے سپرد کر دیا جائے -  
 کیونکہ - - -

جناب چیئرمین : آپ formally تو کر دیں -

**Mr. Shahzad Gul :** Sir, I beg to move :

“That the Bill to provide for the establishment of a People’s Open University at Islamabad [The People’s Open University Bill, 1974], as passed by the National Assembly, be referred to the Standing Committee concerned.”

**Mr. Chairman :** The motion moved is :

“That the Bill to provide for the establishment of a People’s Open University at Islamabad [The People’s Open University Bili, 1974], as passed by the National Assembly, be referred to the Standing Committee concerned.”

**Mr. Abdul Qaiyum Khan :** Mr. Chairman Sir, this is opposed. I would request that the honourable Minister is not here and this will go on to next Monday. Honourable Member will have a lot of time to move his amendment and discuss and I request him not to press for the Standing Committee. The Minister for Law is not here. I cannot do justice. After all this is a beneficial measure ; it is People’s University, everybody will get degrees.

**Mr. Chairman :** You want this to be referred to the Standing Committee.

**Mr. Abdul Qaiyum Khan :** No Sir, I am opposing.

**Mr. Chairman :** Let me enquire from both sides. There are many people who want to speak on this motion to be referred to the Standing Committee. In the meantime the Law Minister will have arrived.

[Mr. Chairman]

“That the People’s Open University Bill, 1974, as passed by the National Assembly, be referred to the Standing Committee concerned.”

*(The motion was negatived)*

Mr. Chairman : The amendment is rejected. Before we proceed further it will be reasonable to accept the request made by the honourable Member—Leader of Opposition—that clause by clause consideration should not be taken up today. I, therefore, adjourn the House to meet day after tomorrow at 10 a.m.

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(The Senate then adjourned till ten of the clock in the morning on Monday April 22, 1974).  
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