

Railways Act, no reduction in rail freight was justified.

**COMPLAINTS FROM DELHI VILLAGERS
ABOUT INSUFFICIENT SUPPLY OF WATER**

58. **SHRIMATI SAVITRY DEVI NIGAM:** Will the Minister of IRRIGATION AND POWER be pleased to state whether Government have received complaints from persons residing in the villages around Delhi which are irrigated by the canals connected with Punjab about the insufficient supply of water for irrigation purposes and if so, what steps Government are taking to mitigate the grievances of the cultivators?

THE DEPUTY MINISTER OF IRRIGATION AND POWER (SHRI J. S. L. HATHI): A complaint was received on behalf of the Garden Owners and Contractors Association of Delhi.

Delhi Administration have reported that they have set up an investigation unit to determine the water requirements of crops as well as of gardens in Delhi. As soon as their survey is completed, they will be able to indicate to the Government of Punjab the exact requirements of water both for crops as well as gardens.

**THE GENEVA CONVENTIONS BILL,
1960**

THE MINISTER OF DEFENCE (SHRI V. K. KRISHNA MENON): Mr. Chairman, I beg to move:

"That the Bill to enable effect to be given to certain international Conventions done at Geneva on the twelfth day of August, 1949, to which India is a party, and for purposes connected therewith, as passed by the Lok Sabha, be taken into consideration."

The Chairman, the Bill before you entitled "The Geneva Conventions Bill, 1960" consists of 20 clauses and 4 Schedules. The Bill, on the whole, being a bulky one, may give the impression that a detailed consideration of it is necessary. This is not the case, because the Bill consists of only 20 clauses, and the bulky part, the Schedules, are Schedules of the Geneva Conventions; it is not possible for us to alter them in any way, because they are Conventions to which we are signatories, and they were done at Geneva in August, 1949. They have been ratified under our constitutional procedure by the President and have come into operation. The purpose of the Bill therefore is of an implementary character; that is to say, this Bill has been introduced in order to give Government the necessary powers to enforce the provisions of the Conventions.

Now at some stage of my observations, Mr. Chairman, perhaps it would be useful if I gave a little history of this question, because it really does go beyond the mere passage of 12 Noon a Bill. It concerns humanitarian principles and not laws of war. We are concerned with the laws of war only to the extent that there are breaches of understood conventions and methods of treatment of neutrals and even of belligerents, the laws of war relating to the principles of conduct of war and armed conflict, and when those laws are violated, illegality occurs. There are conventions further, but even in a likely war if certain understood conventions with regard to the treatment of people on humanitarian principles are violated, there is a breach of this Convention.

Sir, so far as our country is concerned, there is probably a long past history with regard to the observance of humanitarian principles. In the literature circulated by Government in this matter there are references

made to Manu—you will probably be able to quote the original texts—about the use of instrument, not a barbed instrument, but an instrument of flame with tips and so on and so forth. In other words, even if war is to be fought it is to be fought with the least degree of suffering, with the least suffering inflicted. That is the original idea. In the darker days of Europe these things were not being observed. Violation of international law itself, in modern times, can be traced back to Grotius. The International Humanitarian Principles embodied in these agreements came in the middle of the 19th century. It is not as though individuals did not observe inter-party agreements. But about that time, largely arising out of the very large number of casualties inflicted in the Battles of Suprano in which over twenty-five thousand Austrians were killed, a Swiss national was struck by the idea that a good number of these wounded people could be assisted. The work of that one individual collected round other people purely on a voluntary basis. That was the beginning of the Red Cross. I think it is only appropriate that while we pass this Convention, we pay tribute to this first organisation by one individual, a small private effort which has now become a very large international body recognised by civilised governments in the world, and what is more, in many ways functioning alongside Governments, without participating in their inter-conflicts in times of war.

The Red Cross is very largely responsible for the promotion of these various Conventions. The date, as I mentioned at that time, was some time in June, 1859 when this gentleman started the activities. In two or three years' time it was unofficially organised. Later on came the First Convention of Geneva, 1862, which deals only with the wounded persons who became victims of war between nations, war being described as armed conflict between States.

Fortunately or otherwise, these definitions by force of circumstances have to be enlarged and elaborated because war is no longer a declared war. War is no longer an organised conflict between States but it includes other states of conflict which inflict suffering upon human beings. So, the First Convention of 1862, which had no diplomatic backing to it but was agreed to by certain nations, became extended later. It became part of more regularised Conventions signed by more people. Then two years later—firstly its scope extending only to wounded persons in war—it was extended to those who were serving on the seas.

Then came in 1929, I believe, the most important part from the Parliament's and States' point of view, namely, the Convention relating to prisoners of war. The Prisoners of War Convention of 1929 had been preceded by so many agreements. This stage perhaps followed the definition of a part of public international law represented by various agreements between States or conventions between States and parties in regard to the conduct of war itself, for example, the use of soft-nose bullets or of poison gases or other various methods of diabolical torture or suffering or infliction of suffering in war which has been prohibited by these agreements. But, of course, these prohibitions are all a dead letter if war itself breaks out. But anyway, they come under that category of agreements which prohibits war as between two States. That is to say, two States have entered a treaty that there shall be no war between them and if one makes a breach, there is violation of law and war is illegal. Now what are the consequences that follow? What I want to emphasize is this that these conventions are entirely of different categories. So, the first expression which the States supported is what they call International Humanitarian Law which has a history going back to hundred years or more.

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In 1929 the Prisoners of War Convention emerged. It was subscribed to by nations. But as soon as it emerged, it came to be felt that it was not sufficient to rouse conscience in Europe or in more awakened nations. As it were, there was a prospect of the Second World War and also the First Convention was prompted by the conditions that prevailed during the Crimean War, the conditions that prevailed during inter-war years between 1914 and a decade after the First World War. The nations were summoned to consider as to what would happen if the Second World War broke out. The Second World Convention was proposed to be held in 1940 to extend the provisions of the 1929 Convention. Then the introduction of the World War came and that conference did not take place.

Sir, again, the Swiss Red Cross, afterwards known as the International Red Cross, made efforts in Geneva and some time in 1948 they gathered. That gathering was followed by a diplomatic meeting of 1949. This country of ours has taken very important part in the formulations of these Conventions. The Government of India placed this matter in the hands of our High Commission in London. At London, in 1949, the Legal Adviser to the Government of India, Sir Dhiren Mitra, assisted by his very able colleague, Mr. R. A. Narayan, were representing us in this Convention. Sir Dhiren Mitra was the Chairman of this first Committee.

Under obligations thereunder, now to come to the more constitutional aspects, this reveals previous legislations of 1911 and the Act of 1934, which the current Act repeals and this Act, in turn, repeals them.

Now, if I may go into slight details, which the House may deem it necessary to know, the first part of the Bill deals with definitions—the details you may not like about them. The

second part is a very important part, and but for the fact that public opinion is so much behind these Conventions, a great deal of controversy is created in our country and other countries because of his second chapter. Clauses 3, 4, 5 and 6 represent—particularly clause 3 represents a fundamental departure from the Criminal Law and Jurisprudence because until now it was competent for our courts to punish a man, to bring him to trial and inflict penalties on him if he was our national and committed a crime abroad, or we could punish an individual, bring him for trial, impose penalty on a non-national if the crime was committed in this country. Now this clause provides for trial and penalisation of individuals who are not our nationals or for crimes of breaches of this Convention which are called the greatest crimes committed anywhere. That is to say, if an individual, who is not our national, committed one of these breaches abroad and then happened to be in this country, then he can be apprehended and placed before our courts which will be competent to try him if this Bill became a law. This is a departure from the established systems of jurisprudence, both British, which we have largely followed. There was some controversy about the time. Anyway, we have accepted it. But this applies to, what are called, grave breaches.

The grave breaches are described in article 50 of the First Convention, in article 51 of the Second Convention, article 130 of the Third Convention and article 147 of the Fourth Convention. These breaches are wilful murder, torture, maiming and things of that character which have been described in the Conventions themselves. Wilful killing, torturing, inhuman treatment include biological experiments. This is a very important matter because it includes wilful killing, torture or inhuman treatment, performing biological experiments, wilfully causing great suffering or serious injury to body or health, and exten-

sive destruction and appropriation of the property of individuals. Protection of the property of protected persons under international law and so on will also come under this. But over and above that, a number of other matters have also been included in this Convention. In addition to the above grave breaches of Conventions, the following are examples of punishable violations. They will not become grave breaches, of the laws of war—treacherous request for quarter, maltreatment of dead bodies, firing on undefended localities, or non-military objectives, abuse or firing on a flag of truce or the abuse of Red Cross emblems.

This really covers a very large field of misconduct. The Third Chapter is equally important, because while on the one hand the first imposes great penalties and extends the limits over which those penalties can be imposed, the Third Chapter is from the humanitarian and equitable point of view and makes provision for the defence of the accused. The accused, in this case, very often is a foreign national and therefore, for that reason, to use the popular language, a civilized State has to render assistance to see that the principles of justice are carried out. So, Chapter III, in the various clauses that are set out here, makes provision for the legal defence and so on of the accused in these circumstances. Here also there is a departure from established jurisprudence. There is an obligation. It is not a question as though the accused may have legal defence. In the case of grave offences, under these sections of these Conventions, coming up before trial an accused must be defended. That is to say, it is possible, when there are two countries at war, a prisoner is determined, out of affront or out of bitterness, when the man is brought up before trial that he would refuse to speak or he would stand mute and not plead, humanity requires that whatever may be his temporary feelings in that way, that should not come in the way of his

defence. So the Convention and this enabling Bill that gives Government power, provide that he shall be defended by legal practitioners. Now, this again is a departure from our normal practice in every country.

AN HON. MEMBER: Even if he refuses?

SHRI V. K. KRISHNA MENON: Certainly if he refuses because if he does not do it, I have related the circumstances in which it has to be done. There is nothing ethically different, because we make attempts at suicide, for example, illegal. There is no argument to say that a man wanted to commit suicide.

Coming to Chapter IV, this probably is the more practical part of it, the protection of the Red Cross and other emblems. In the previous law, two emblems were protected, the Red Cross and the Geneva Cross. Now the Red Crescent and the Red Lion and Sun are there. These are the three emblems that deal with international organisations of this character. In another place, when this was debated, one hon. Member said: 'Why not we have a national symbol for the Red Cross?' Since there are 80 or 90 nations in the world, the whole purpose would be lost. But the Red Crescent and the Red Lion and Sun came in because regarding the Red Crescent, I believe, in the First World War, when the Ottoman Empire was at war against the Allies, they did not want to take advantage of it for various reasons. These were by conventions and by custom agreed to and the emblems are protected under the law.

Mr. Chairman, it may well be asked as to why there should be such prohibition in regard to using them. These provisions are against unauthorised uses of the Red Cross. It is called Red Crescent and the Red Lion emblem. The reasons are that it is possible that under the cover of the immunities provided by these symbols, other people might commit acts

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against the host State and might indulge in commercial and other malpractices; for example it is possible to cover contraband under Red Cross cover and things of that character.

In the same way, and arising as a sort of corollary, is also protected the national crest of the Swiss Government, for two reasons; one is because it very much looks like the Red Cross because Red Cross is a Swiss emblem in reverse, it being a silver cross on a red ground whereas Red Cross is a Red Cross on a silver ground. It is possible that people who are not conversant with these details, however educated they may be, may mistake one for the other. Therefore it will be more or less what the lawyers would call, "passed off". It is colourable imitation of it that is prohibited. It is rather like the trademarks in a Merchandise Act.

There are certain miscellaneous provisions which give the Government rule-making powers. Now these rules in our system, according to the usual practice, will be laid before Parliament. The miscellaneous provisions also make provision for the repeal of the previous Acts that I have referred to. I also ought to have said that these are cognisable offences. Therefore it is not as though someone has to make a complaint. In passing this Bill and when it receives the assent of the President, we will have an Act which gives legal force for the powers of implementation of these four Conventions. I might say a word about the Convention itself.

The First Convention is the oldest and relates to the wounded who are picked up or who become the victims of war action but now, as I said, that has been extended in ways that have some relation to present developments and the developments in regard to our country. First of all the whole of these Conventions will no longer apply to States that are in a declared state of war. The war may be undeclared war, as we had in Kashmir.

It may also apply to personnel who are under organised bands even if they are not soldiers, provided they are led by a leader. It also applies to nationals whose territory has been occupied. These two latter provisions would apply to the present situation with regard to China, that is to say, a band of people who are organised and led. They would also become eminently entitled to the benefits of this provision.

The Second Convention applies to the same things in the context of maritime victims.

The Third is in regard to prisoners of war. There are elaborate rules laid down with regard to prisoners of war. For example, it is not right to use the prisoners of war for the purpose of labour. They may not extract information from him. All that the prisoner may be asked is to give his number and particulars of that kind. The fact that he is in confinement, that is to say that he is in captivity, that he is under your power and he cannot get food except from those under whom he is held,—that fact should not be used for compelling him or to extract information from him or to turn him into a traitor to his country. In fact this is the practice in regard to prisoners of war that they are commanded by their own officers who retain their own status and the usual procedure with regard to even representations are carried out. Again, the prisoners of war are not to be used for labour and, as I said, for biological experiments, and for things of that kind. The prisoners of war are not also to be treated in any manner that imposes indignity on them. For example, if the prisoners of war were to be dressed up in ridiculous costumes or if they were to be asked to defy their flags, it may not be a physical offence or wilful murder or maiming but equally it comes under this Convention. It is important in this sense that the whole thing being based on humanitarian principles, we should

take into account the spiritual fact involved in the dignity of man as such. But the most important is in regard to the Fourth Convention. It is an addition to the previous one and that deals with civilian population. Never in the previous Convention till the end of the last war did we deal with civilians but with the advance, as we call it, in the methods of warfare, particularly aerial warfare and the modern conceptions of it, the civilian population became equally part of the military population. There will be no longer any disengaged people in any war. Their whole territories become subject of invasion and their homestead become subject of invasion and so on. Therefore in the Fourth Convention comes an entirely new factor, that is to say, that these benefits, whatever may come out of it, or these liabilities or the obligations and the moral law that is embodied in this Bill, are to apply to the civilian populations even though they are not physically under the control of the whole attacking power. That would be the case of a country which is being bombed by another and even after the bombing. It may be argued that when it is being bombed, it is temporarily under control but afterwards it is not and therefore there is a great danger of bringing the civilian population under the ambit of this law. There is one further matter and that is this, that this is the first of these Conventions where it is expressly laid down that this provision shall be applicable to all human beings without any distinctions of colour, race, caste, creed or country. And that was very necessary, because in previous times colonial wars came under a different category and with the emergence of a powerful array of nations to nationhood, their inclusion became a very important matter especially as you may remember, Mr. Chairman, after the controversies at San Francisco on racial equality. So this also provides for the removal of these distinctions and says that it shall apply equally to everyone. That is all I need say about these Conventions.

The Convention was signed, in the first instance, I believe, by 19 nations as soon as it was drafted and soon after by others, and now I believe it is ratified by some sixty nations. It has come to be a piece of international law—I mean taking international law away from its definition, if there is any definition of international law—that obtains in the world. It marks the triumph of the principles of humanitarian observances over other considerations. At the same time we may not be romantic about it, for if a war breaks out, then most of these things would probably be disregarded. But under present conditions, if there is any survival after a modern war, then the conception that emerged at Nuremberg about war criminals which at that time had no legal sanctity, as was put forward to a certain extent by one of our representatives at the trial of the Japanese, would assume a different complexion. Secondly, Sir, it is our unfortunate experience that though there was a convention against the bombing of non-military objectives before the World War, soon after the war broke out, it was said the Germans initiated the process by bombing non-military objectives in the United Kingdom. This was further spread out and it led to the round-the-clock bombing of Germany. Its basis was an escape clause which was provided at the time, that bombing should be confined to military objectives, provided there are no military objectives in the vicinity. Therefore, it was spread out in that way and ultimately came to the round-the-clock bombing of Germany and at a later stage to the bombing of Hiroshima and Nagasaki where large numbers of civilian populations came under the mischief of war and were annihilated. So whether in the event of war all these conventions would apply or not is another matter. But we need not take a cynical view when we enact this. We enact municipal legislations even though in every country there can be civil commotions or things of that character when the enforcement of the municipal law would be impossible. Similarly, in

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the context of international relations these Conventions represent, as they do, the desire of mankind and of their representatives to find some way of ameliorating the conditions created by their weaknesses or by the conflicts between nations, and though they be unobserved, they may be dishonoured or they may be violated by one party or the other in the event of an outbreak of war, there may be some small relief from the fact that there are certain criteria which people have to observe.

This Convention also imports another idea which from an ethical point of view has some importance. Those who have signed the Convention are bound by it even though the other party is not bound by it. That is to say, an obligation is an obligation even if the other fellow does not honour it. There is, however, this limitation that if two countries are engaged in a conflict and one country has signed the convention and the other has not, then it will be incumbent on the country which has signed the Convention to keep on following its principles until such time as the other country comes to accept it; even without signing the Convention, they can accept the conditions in it, or if that country does not accept it, then the first country is released. But initially, without waiting for an agreement—because if you waited for an agreement, the whole thing would fall down, because they are at war—initially the signing party is bound by this promise.

We have accepted the obligation already and now Government submits this Bill to Parliament in order to confer the necessary powers that would be required. A great part of it may really be accomplished by administrative action. But the Bill is introduced for two reasons. First of all, as I said, there are certain departures from our jurisprudence.

Secondly, we should repeal the previous Acts and thirdly, wider powers are required and there must be some provisions for laying the rules on the Table of the House. There is a note at the back of the Bill with regard to the financial provision, about which all that Government can say is that it is not possible at the present moment to say what burden the country would have to carry under these circumstances.

With these words, Sir, I commend the Bill to the House.

The question was proposed.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman there cannot be any two opinions that these conventions in so far as they go, should be supported by Parliament and, indeed, by all people. But today, when we are discussing these Conventions, we have to go into this question a little deeper because this is the only profitable thing that we can do in regard to the Bill. However, before I come to do that, I would like to ask the Government why there was so much delay in bringing up this particular measure. These Conventions were drawn up in August 1949. They were ratified by the President in 1950 as far as we are concerned and then they came into force in 1951. As the hon. Minister has said just now, some of the provisions of the Conventions would not require any legislative sanction, for these can be implemented through administrative measures. Then there are certain other provisions as he mentioned in the course of his speech which would mean departure from the prevailing jurisprudence and the prevailing law and which would certainly require legislative sanction. I would like to know why there was so much delay. It is quite clear that these provisions had been in operation for the last nine years, at least partly,

without the requisite sanction of law. And it is no good that, having committed ourselves to a certain position, having ratified a certain international agreement, we should not give it instantaneously the sanction of law when such sanction is required. Here it seems to have been kept in cold storage and I think the hon. Minister should give us an explanation as to why this has happened. Suppose something had happened when waiting for the legal sanction, say in 1956, 1957 or 1958, then I think we could not have done anything, or the matter would have been kept pending till a law was passed here in so far as it would be necessary to seek legislative sanction. I am not speaking about things which we could have done through administrative action. But there seems to have been inordinate delay and this shows the manner in which certain Ministries function. I do not think it is necessarily the function of the Defence Ministry, but the concerned department should have initiated this measure and got it passed. After all, there is no difficulty at all because it is not a controversial matter. It could have been passed any time if it had been brought before this House or the other House. This is something which is missing in the remarks that the hon. Minister made in the other House and it is missing here also today. Naturally, I would like him to furnish an explanation to the House. I do not mean anything personal, because when it was ratified, I do not think he was here. Therefore it is not a question of any personal accusation or any such thing at all. It only relates to the manner in which sometimes departments of the Government function.

Now, let me come to this provision. This is a big Bill containing schedules of the convention and agreements. It is based on international law. There are pacts made and, therefore, we have to keep this Bill packed and we have to pass the necessary law. Since they are good, there cannot be any objection but I wonder where

these conventions would stand if a third world war broke out? That is the point. Lessening brutality is always good; showing concern for humanity and showing small mercies to humanity is good. It is a good pursuit and nobody would contest it but sometimes one wonders as to what would happen if war came today. Would anybody remember these conventions? This volume would not be there because we would be having a war, not the kind of war that we had in the 19th century—even then the conventions were not observed—or even the one that we had in the middle of this century, the Second World War, but a different one. What happened in the Second World War? Even then very many good conventions had been signed containing certain very good principles and very good sentiments which had held out some hope to mankind but mankind was totally disillusioned by the fact that the first casualty in the War when it came was the agreement signed amongst the nations. We know as to what kind of a war will come today if war were ever to come. It will not be merely an army marching—armies will be there but it will not be merely armies marching through a country causing physical destruction by the use of conventional weapons—but would there be a war of missiles; wars will be conducted by pressing buttons in the same way as we press buttons here for purposes of recording votes. Missiles and rockets would be sent across the seas, mountains and continents to specific targets, to carry death and destruction and havoc. In that context, where will this convention stand?

The fourth set of conventions deal with the civilians and so on. We see today that even the preparation for war brings injury to human life, for example, the preparation and testing of atomic and nuclear weapons. We do not have a war but the preparation for war brings in destruction, extreme danger to life and so on. Only last Saturday, we had the Sahara Test by the French despite strong protests from all quarters. Now, you see, Sir,

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the first thing that the Government of Ghana has done is to freeze French assets and the freezing will continue till the effects of this test on the population of Ghana are known. This is how one side carries on the test and another side, understandably, protests against it. The Government of Morocco has protested against this. Everybody is protesting. We too have expressed our sentiment against this. The very preparation for war in the form of atomic and nuclear tests throws to the four winds the principles of humanity, the good sense of humanity and causes instantaneous danger to health and life.

SHRI AMOLAKH CHAND (Uttar Pradesh): May I know this from the hon. Member? Under what convention, the fourth or the third, will this thing come?

SHRI BHUPESH GUPTA: That the hon. Member will not understand. I shall tell him. Let him be not under any illusion. The hon. Member suffers from an illusion; otherwise, he would not have made this interruption. I would like to disabuse the hon. Member of his illusion, not that much will come out of it. We should not reject small mercies. We should accept them.

Let me, in the beginning, say a good word about the representatives of our country who played a constructive part in the Geneva talks over these conventions. I am told that Mr. D. N. Mitra, the Legal Adviser to the High Commissioner, was one. There was also his junior, Mr. Sankaran, I think—whatever his name is. They were there. Another person—because of personal embarrassment he has not mentioned it—was the High Commissioner for the time being. I think the hon. Minister was there as the High Commissioner. Therefore, these three gentlemen need a little appreciation from our side for what they did. We should have very much liked to know as to in what manner they contributed towards the formulation of these conventions.

SHRI SANTOSH KUMAR BASU (West Bengal): If you give any appreciation at all, don't do it in a grudging manner, like 'little appreciation'.

SHRI BHUPESH GUPTA: Well, abundant appreciation, if you like. Our friend is always an engaging friend; therefore, let it be abundant appreciation. He is getting so much appreciation from your side despite questions from this side that I thought that I need not add to it very much but still he is in need of it and I will not grudge giving it to him in abundance should he be in need of it.

SHRI H. P. SAKSENA (Uttar Pradesh): Not a word has yet been spoken in appreciation or otherwise from this side of the House.

SHRI BHUPESH GUPTA: You do not ask him questions. That is the privilege of others. Every speech of his is read these days, the other speeches are not. When we talk about peace, our speeches are not read. His speeches are read and supplementary questions are put and understandably so because he is a controversial person but I think sometimes this side should also join in paying a tribute to all those who worked for the evolution of this convention. It is not that I have much illusions about these things but in the councils of world affairs whatever little thing we do by way of bringing wisdom to bear on the subject before such councils, whatever step one takes in the direction of upholding human principles, whatever step one takes in expressing the sentiment of peace and humanity in such matters, deserves to be congratulated. Therefore, I say that they did a good thing but, as I said, we would have liked to know how and in what manner they contributed to this set of conventions. People should know this.

Now, coming to the other aspects of this Bill, what are we going to do? We have to carry forward this effort. While I was speaking, Mr. Amolakh

Chand asked as to how the point I was making came in this measure. All that I can say is that the efforts embodied in this convention, the sentiment spelled out in this convention, should be carried forward in a still greater and mightier form. What we should seek really to do is complete and general disarmament. That is needed today because war will not spare us. War, danger of havoc, loss of life and property, destructive raids on civilisation, etc., will not be inhibited or hindered by international agreements, this or others. That is the point and, therefore, I say that we should go forward in that direction. I say this thing because the Government, headed by Prime Minister Nehru and also assisted to a large extent by the Defence Minister, Mr. Krishna Menon, have been working towards this end and this effort should be carried forward. That is what we look forward to.

I was in England, along with Mr. Menon, at that time and we were together many evenings in public meetings when the German formations of the Luftwaffe came and discharged their cargo of death and destruction on the City of London. There was no talk of convention. Nobody talked about it. I did not seem to have read any editorial or any Press comment about the conventions in the British newspapers or heard about it in the broadcasts. Nobody bothered about it and yet we were sitting on a pile of international agreements and conventions, probably stacks of them were there in White Hall and in other places to be referred to but nobody worried about it. The civilians became the target, not today but even in the Second World War. What did we see then? The Battle of Britain was not directed against the military forces; the attacks were not directed against military objectives but rained top place from the top and the planes came. He was living in India House, a very dilapidated house which would have given in at the sound of a bomb. He was there and we were there also. For instance, as I was sitting for my Bar examination, bombs began to fall

on the Inns of Court. We continued our examination but some buildings, the Inns of Court, was demolished. I have seen with my own eyes how the hospitals were demolished, how various other buildings were demolished. For instance, my own college, the University College of London, was demolished. Indian Students Union was there; that was demolished and some students were killed. That is how things happened.

Then again retaliation takes place and that way the thing went on. Now, reference has been made to the bombing of Coventry and other places. There also the same thing happened. I was in Oxford and I saw German planes flying in huge numbers over Oxford and I saw the entire place lit up. Coventry was finished, razed to the ground in a matter of few hours. There was ruthless and barbarous bombing. Nobody bothered about Conventions. What happened ultimately, we have seen. Then what happened in Hiroshima and Nagasaki? Our American friends discharged their cargo of death and destruction on the civilian population, finished off a large section of the population and then left a legacy for the others to bear and to die over the years that followed. That is the position today. And that will look a child's play compared to what would happen if a war came today. Let there be no mistake about it. Soldiers, civilians, everybody, men, women and children, will be all equally affected. Nobody would be outside the front line of battle or outside the target of bombs. There cannot be any such thing at all. Therefore these are matters which we can discuss and we can only spell good sentiments here for preventing a possible war and for giving this world a lasting and enduring peace. After going through all these terrible experiences and nightmarish destruction that took place in the various wars, the only thing that we can look forward to by way of international agreement, by way of international law is a state of affairs when there would be complete and general disarmament. Armaments have to be

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destroyed; mankind is not safe at all if these armaments remain. We know that missiles are on the assembly line and competition is going on. And now another Power has joined "the nuclear club". That is the position today. That is the situation that we are facing today. Maybe, ten years ago this would have been all right. Today, in the year 1960, we are thinking of passing this measure when the shadow of nuclear destruction hangs over the head of humanity. Now, Sir, these sentiments are good but one has to work up to them. Even in the last war what did we see? Apart from the general destruction caused by the occupation parties, what happened? Soldiers were used, despite previous agreements, for biological experiments. Civilians were consigned to death through the gas chamber and civilians were butchered and murdered straightway when the country was taken possession of or occupied by the enemy. These are the things that happened 12 or 15 years ago or may be a little more. Now, if another war came, well, it will not be like that. We shall be dying here when the atom bomb drops somewhere else or our health may be affected. The parties that would go to war without seeing the face of each other as far as the armed forces are concerned, would be dealing with each other and dealing death and destruction to each other in a manner of which one shudders to think. That is the position. Therefore these Conventions are all good but they will produce hardly any result. Many Powers have signed them. I think some 60 or 62 Powers are signatories to the Geneva Conventions but as you know many of them have violated these Conventions. What happened in the Korean war? They were violated; in some cases even the Red Cross was used for purposes of aggression. We know about that. The prisoners of war were all treated in a very bad manner despite these Conventions. All kinds of methods were used, methods impermissible under international law, impermissible under these Conventions

and at that time the Conventions were obligatory on those signatories. Therefore I say we hardly get any satisfaction or solace from this thing. To some extent, they are useful in the sense that they sometimes remind us that humanity has not lost its good sense; though there are people and even Governments that believe in brandishing swords, that believe in talking in a tough language, in a war-like language, there are people, may be at leisure hours or even otherwise, who think in terms of minimising the brutality of wars. So these are good things but we have to carry forward these sentiments. We have to see that these noble sentiments that concern the fate of humanity become gradually translated into State policy at a higher level, in a field much broader than this. That is what we should try to achieve and this is what I am asking him to strive for as he has been striving for.

Now, the fourth thing that has been added is good, that is, relating to civilian persons. It was missing previously. It was more or less assumed theoretically that civilians would not be made targets in a war but then in the Second World War the civilians were the first targets. Probably that compelled some of the Powers to sit together and devise safeguards for civilians but that is again inadequate. If these sentiments have to be formulated in terms of certain Conventions, much more could be said by way of fully expressing the sentiments covering the entire theme. that has not been done. All the same, in so far as they go, as I said, they are useful. I know in some cases when there is a small war between one Power and another Power—not the nuclear Powers, not the big Powers but small Powers; they may not be Powers as such—such things may be useful, not for preventing it at once but for mobilising public opinion. Take, for instance, the Algerian war. We have a provisional Algerian independent Government. It is fully entitled to take recourse to arms and fight for independence because it is a struggle for independence. But we find that the

French authorities, despite the fact that they are signatories to these Conventions, have in fact neglected all of them as far as the prisoners of war are concerned, that is, prisoners taken from the Algerian Liberation Front. Even with respect to civilian population, these Conventions are being violated by the French authorities. Homes have been entered into; guns are mounted against peaceful villages and the villages are blown to smithereens. Children in mothers' arms have been shot and killed in such a brutal manner that one is reminded of Hitler. Such things are happening even today, at this hour large number of civilians in Algeria are being killed and I should like to know what steps the signatory Powers took in protesting against such violations of these Conventions, Conventions that clearly and categorically bind the French authorities. Probably it may be said that it is an internecine fight; it is a domestic matter of the French Government. But that is not so. We know that the Algerian Provisional Government functions and 9 million Algerians are fighting for a just cause. Even by spending 2 million dollars a day it has not been possible for the French to quell that war of liberation. Even by shooting down lakhs and lakhs of people it has not been possible for them to suppress that hunger for freedom and the assertion of sovereignty of the people. What are they doing there now? They are now engaged—and they have been engaged all through—in using inhuman and brutal methods impermissible under any civilian laws, impermissible under the existing agreements and conventions and we have not done anything.

Similarly when war was started against Egypt, what did we see? We saw the civilian buildings and other things being shattered. The Anglo-French forces directed their bombing against civilian objectives to terrorise and browbeat the Egyptian people into capitulation and surrender. The prisoners of war taken by them were brutally treated and so on. We

saw it there recently. Yet both Britain and France are bound by the Geneva agreement. Now, it was a kind of miniature war, small war. It could not be said in this case that it was a domestic affairs of either Britain or France. It was a regular fight, a kind of war, declared or undeclared. In fact, it was a kind of war between two or three powers on the one hand and another power defending its independence and territorial integrity. Where did the Conventions stand? They were violated. This is how it happened. Take, again, the South American countries. We find these are violated. I do not know how many of the South American countries are signatories to these Conventions, but whenever trouble comes, they are violated. The question is what were we doing when they were not doing anything? Why can't we do that? It is not that our country is not interested in stopping such things. We are and the Government of India are interested in stopping such things. We cannot prevent such violation of the conventions and agreements because some great powers are interested in seeing that they are violated. They want their aims to be achieved, carried forward through violation of international agreements, in defiance of international morality, in defiance of the code of conduct that binds—no agreement or otherwise—the nations of the world today. That is why we could not do anything. We could not do anything in the case of Suez. We cannot do anything, unfortunately, in the case of Algeria. We cannot do anything even now when some of the things are happening by way of tests, and so on. That is the position. Therefore, as you will see, international law here does not have that sanction. Where will the sanction come from? We do not have a super-State, neither are we going to have one. We do not want it. There is no such thing. Yes, if somebody commits an offence, he can be apprehended under this measure, punished and sent to prison. But if a power violates it, what can we do? And if

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the power is a big power, we cannot do anything at all. This is the position.

Now, therefore, the whole thing needs re-thinking. I think, Mr. Deputy Chairman, the time has come today when we must give up our ideas of international law, the conventional ideas of international laws, not that we should not cherish them. They are a part of history, they are a part of progress in the wisdom of man, part of experience of civilization. But today we must think in much bigger and bolder terms to formulate quite different sets of international relations, laws, conventions and practices which would conform to the needs of the situation, especially when we have in view the tremendous technological and scientific developments that have taken place, of which our Prime Minister very often very rightly talks. Therefore, the time has come to proceed along these lines. But then the most important task in this connection is to come to a decision that war shall be outlawed, come to a mutual understanding especially amongst the great powers that war shall be declared to be a crime against humanity not only by fine sentiments but by signed agreements, made by the powers at a definite place, at a given point of time. That should be done. And towards that end, a noble end, to free mankind from the menace of war, threat of war, if we are to proceed, then we have to inevitably go in for destruction of all weapons of destruction. That is very important. Therefore, the first convention that we need today is this. I am glad to say that we have before us some proposals coming from a great power, a military power, perhaps the strongest military power in the world today. And only the other day we heard in another place in this country Mr. Khrushchev telling the world that the Soviet Union, though a great power, was prepared to completely destroy all

these weapons, should other powers agree to such destruction. He also declared the ideal and practical steps for complete and general disarmament, subject to very strict international supervision, should other powers agree to such things. Now, in that context, of course, will take place the summit meeting. The greatest convention in the interest of humanity, mankind and peace would be written of it were successful. If it were not successful, then of course there will be disappointment. We shall be dealing with such conventions.

Now, Sir, that is the approach that we should develop. In this connection, finally, I would only say this. The hon. Minister has pronounced certain very good sentiments. I would like to reciprocate the sentiments in this matter and also the sentiments expressed in this Bill. But then today when we are thinking in terms of world peace, talking in terms of humanity and much less of war, let there be no war. That is the point. We should work for the preservation of world peace, for preventing another war besetting the path of mankind, spelling ruin and disaster to humanity. That is what we should do. If we have to do such things, then we must develop a national accent in that respect. Our nation must not talk peace only in international councils or only occasionally. We must make it an article of faith in this country itself. We should all the time work for this and we should make it a part of our national, political life here. That is to say, the talk of war, bellicosity of that kind, threatening each other or speaking in that manner, should have no place in the context of our national expression or in the context of our political life. That is the point. I do not say that by itself we can get very far. But then the moral weight of a great people like ours would be made to be felt all over the world and our moral strength is perhaps the greatest armour that we possess today. We are not a military

power, but we are a big country, a great people with very great traditions of culture and civilization, with a message for us to give to the world. If we condition our political life internally, speak in terms of peace and sentiments such as are expressed in this Bill, and hold aloft the banner of world peace, peacefulness and friendship among nations, I think the time will be not very far away when humanity will be rid of this menace of war, of nuclear destruction, when mankind shall settle down to formulating and evolving binding laws and conventions that would give them the grace of peace and the majesty of a friendly co-existence in this world, each helping the other in the pursuit of prosperity and happiness. Thank you.

SHRI SANTOSH KUMAR BASU: Mr Deputy Chairman, I welcome this Bill which has been brought before the House for the purpose of implementing the conventions which have been arrived at in Geneva several years ago. The hon. Defence Minister, in his able and comprehensive speech, has given the history regarding this matter and also the salient features of the Bill, which he has presented before this House for the purpose of acceptance. Now, Sir, my esteemed friend, Mr. Bhupesh Gupta, has drawn attention to the fact or his apprehension that so far as these conventions are concerned, they are all very good and look very nice on paper, and are inspired by high motives of humanity, but at the same time, it is difficult to foresee how these conventions will be followed and acted upon when actually a devastating war is on. My learned and esteemed friend is quite right in expressing that apprehension and it has happened like that in the past. At the same time, this Bill only seeks to enact provisions which will have to be adopted and followed by persons engaged in war, parties engaged in

war. If in the orgy and madness of war, these conventions are trampled upon, nobody can prevent it at the time a war is going on. At the same time let us not forget that nemesis will come to the parties defeated and necessary steps will be taken to punish those who have set at naught these conventions although they are parties to them.

SHRI K. M. PANIKKAR (Nominated): What about the victors?

SHRI SANTOSH KUMAR BASU: So far as . . .

MR. DEPUTY CHAIRMAN: You can continue at 2:30.

SHRI SANTOSH KUMAR BASU: I will just finish this sentence. So far as the victors are concerned, well, they are above law. Victory has given them that favoured position, although humanity will condemn their action all the same.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2:30.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, THE VICE-CHAIRMAN (SHRI DAHYABHAI V. PATEL) in the Chair.

SHRI SANTOSH KUMAR BASU: Mr. Vice-Chairman, before the House rose for recess, I was making my submissions with regard to the effectiveness of these Conventions, a question which has been raised by my friend, Mr. Bhupesh Gupta. I attempted to point out that in the madness and fury of the actual conduct of the war, the belligerents might forget for the time being that these Conventions were standing in the way of the atrocities which they might be committing and of the other violations of the safeguards provided by these Conventions. Well, after the conclusion

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of the war when peace comes to be discussed and the provisions of the peace treaty are settled thereafter, the time comes for meting out punishments to those who have violated the rules and conventions for the protection of the belligerents of either side from the madness and the fury of war time activities. Sir, this question was raised, as the House may recall, in the Japanese War Crimes Trial, when the hon. Mr. Justice Radha Binod Pal who was representing India on the Bench of Judges, raised this question in a pointed manner in his dissenting judgment. It is all very well to pursue with vengeance those who have been vanquished in war, but what about the victors who have perpetrated crimes like the one at Hiroshima? That question was raised by him, and that is an eternal question mark upon the validity and utility of such trials after peace is concluded and the vanquished lie low.

Sir, I find that in the present Bill there are some provisions in the Fourth Schedule which may be relevant to this question. Article 148 on page 168 says:—

“No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.”

Article 147, the preceding Article, enumerates several grave breaches of the provisions of the Article preceding that. Article 146 runs thus:—

“Penal sanctions.—The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.”

Then it goes on. Then Article 147 says:—

“Grave breaches to which the preceding Article relates shall be those involving any of the following acts . . .”

A number of acts and the nature of the acts are delineated in that Article. Then comes Article 148 which I have already referred to. Now, I do not know how far these provisions will answer the questions that have been raised in regard to the breaches of the Conventions. The hon. Minister might be in a better position to reply to these questions, but I do find that at least in the Fourth Schedule that aspect of the matter has not been lost sight of.

Sir, coming to the question of the provisions of these Conventions, I would only refer to those in the Fourth Schedule, which provisions relate to the Convention relative to the Protection of Civilian Persons in Time of War. This Schedule relates to the protection of civilian persons. Now, that is a matter with which a vast majority of the belligerent people are directly concerned and as such, it is of the utmost importance that we should lay special stress on this particular Schedule. I find that there has been a very earnest attempt on the part of the High Contracting Parties who became signatories to this Convention that persons taking no active part in the hostilities should be cared for and that their interests should be looked after during the progress of the war. Protected persons are defined in Article 4 of this Schedule at page 114:—

“Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals”

This seems to be sufficiently comprehensive. Persons who at a given moment and in any manner whatsoever find themselves in the hands of a Party to the conflict or Occupying Power of which they are not nationals, are considered to be protected persons under this Article. Now, there is another safeguard here, in the next paragraph, which says:—

“Nationals of a State which is not bound by the Convention are not protected by it.”

Therefore, it is incumbent upon the particular State to be bound by this Convention if it wants to reap the benefits of this protection. Now, so far as I have been able to scrutinise these Conventions in the Fourth Schedule, it seems that the general body of the people of the belligerent country in war time do not get any benefit out of these Conventions although the persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves in the hands of a Party to the conflict of which they are not nationals. Now, Sir, I find that particular categories of people who might be open to severe danger in war time have not been included within the purview of these Conventions. Take for instance those vast numbers of unofficial civilian personnel who might take part in civil defence arrangements and organisations which are outside the pale of official organisations in war time. I particularly invite the attention of the hon Minister to this aspect of the matter. Is there any provision in these Conventions which would safeguard the interests, the liberty and the safety—if not the liberty, at least the safety—of the vast number of unofficial civil defence workers who might, in the abundance of their patriotic zeal, come forward in the interests of humanity, in the interests of their nation, to render civil defence to the other nationals of their own country who fall victims of aggression?

Take the case of fire fighters, the case of unofficial workers, the ambulance workers toiling in the streets of a battle-scarred area, open to the dangers of bombing from the air. Will such non-official civil defence personnel get the benefit of these Conventions, and healthy and wholesome benefits of these Conventions in war-time, or thereafter? That is a question which struck me when I was going through these Conventions.

I find that in article 17 in the Fourth Schedule, which is at page 120 of the Bill, the question of evacuation has been taken up. It is one of the most material and important considerations in war-time because, at the time of bombing, evacuation is one of the devices, which must necessarily be adopted by any responsible Government in order to protect the vast masses of the people from the ravages of the enemy's bombing operations. Now this article runs thus:—

“The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.”

Now, Sir, I find that particular categories of the population have been mentioned in this particular article and there is no other article which provides for the evacuation, safe and secure evacuation of the general body of the population, which is one of the principal measures of civil defence in times of war.

I find, Sir, that there is article 6 in the First Schedule which provides for special agreements, and the article reads:—

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"In addition to the agreements expressly provided for in Articles 10, 15, 23, 28, 31, 36, 37 and 52, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision."

But this article relating to special agreements comes in the First Schedule, which relates only to the amelioration of the condition of the wounded and sick in armed forces in the field. That does not touch the general population regarding whom Conventions have been provided in the Fourth Schedule. So, Sir, I find that in time of war, evacuation, which is to be protected by these Conventions, is confined to particular categories of very needy persons, which I do concede, but it leaves out of its purview a large body of the general mass of people who also have got to be evacuated for the sake of securing successful civil defence.

Then again, Sir, there is the question of consignment of supplies of essential commodities in times of war and provision has been made for safeguarding such a necessity of making such supplies and consignments, but only for particular categories of people, not for the general population. It might be said that supplies to the general population might be used for military purposes and as such provision for supplies to the general population cannot be possible in the interest of successful conduct of war. From that point of view it may be contended that the general population cannot be assured of safe conduct of their essential supplies which must be confined to some special categories of needy persons. But, Sir, you find article 23 which makes this relevant provision:—

"Each High Contracting Party shall allow the free passage of all consignments of medical and

hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary . . ."

Therefore these are only safeguarded, namely, the free passage of all consignments of medical and hospital stores and objects necessary for religious worship. The article proceeds:—

"It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases."

Therefore, Sir, these safeguards are confined to particularly needy persons, to some categories of persons but not for the general population. Now the fear that I was referring to, that the supplies to general population might find their way to military personnel, well, that is mentioned in this particular article, and the same article reads further:—

"The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this party is satisfied that there are no serious reasons for fearing:

(a) that the consignments may be diverted from their destination,

(b) that the control may not be effective, or . . ."

—which is relevant for my argument—

"(c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of . . ."

material, services or facilities as would otherwise be required for the production of such goods."

Now, if such a condition which has been applied to supplies for special categories of persons had also been provided in the case of supplies to the general population, then I do not see what could stand in the way of such supplies to the general population also being brought within the safeguard afforded by this particular article. That appears to me to be a serious lacuna, which may, perhaps, be considered by the hon. Minister when he comes to deal with this matter in his reply.

Now, Sir, I do not desire to take the time of the House at any great length. This Bill has been brought before us for implementing the Geneva Conventions; the purpose of the Bill is to give effect to certain International Conventions done at Geneva—to which India is a party—and for purposes connected therewith.

You will find that in the Statement of Objects and Reasons it has been stated that these Conventions came into force in India on the 9th May, 1951—apparently by an executive act, as is always done in such cases. The supremacy of Parliament has, however, to be maintained, and if the relevant provisions of these Conventions have to be given effect to, as this Bill seeks to do, then certain legislative measures have got to be adopted having effect on the internal administrative set-up of this country and the judicial powers of our courts, if these Conventions are to hold good and be effective in this country. That is the reason why this Bill has been placed before us. Effect has been given to these Conventions; they have been signed and accepted by India from an administrative point of view. It is open to this House now to throw out this Bill and to refuse to put its seal of approval upon these Conventions. That will be a most serious step to take for any Parliament in any coun-

try. Nor is there a precedent of this nature lacking. It may be recalled that after the conclusion of the First World War, the Versailles Peace Treaty gave effect to the declaration of President Woodrow Wilson. He said in that declaration that self-determination will be granted to all the smaller nations struggling of having a foothold in their respective lands free from threats, that the League of Nations was to consist of nations, big and small, with the same status and the same powers in that august world body. Well, Sir, that declaration did not find favour with the Republican Party in the American Senate and they actually went to the length of turning down the Versailles Treaty and refusing to ratify the agreement to which Woodrow Wilson had solemnly set his seal. Now, that was a classic instance of the legislature setting at naught the solemn word and act of the head of the State after the world cataclysm had come to an end. That was an instance in which the solemnity of an international contract was seriously challenged. I am sure that this House will not be guilty of any such act and will unanimously put its seal of approval on this very desirable and necessary piece of legislation.

RAJKUMARI AMRIT KAUR (Punjab): Mr. Vice-Chairman, I have great pleasure in supporting *in toto* this Geneva Conventions Bill that has been so ably presented to the House by the Minister. Having been in intimate contact with the International Committees of the Red Cross for the last fifteen years and with our own National Red Cross since its inception, I know every step that has been taken in regard to these conventions which, as the Minister rightly explained, have had to be altered in the light of changing circumstances in war and in the world in general. After all, the Red Cross came into being because one man who had a humane heart saw the suffering of soldiers who had been killed and wounded and were left in the field of

[Rajkumari Amrit Kaur.]

battle without any attention. Naturally, the first convention related to the protection of soldiers whether wounded or sick. After that, it came to apply to a wider field but only in the sense of those who wanted to help the wounded and sick in battle. Then it came to be applied to prisoners of war and this protection afforded to the prisoners of war has gone on increasing as the social consciousness of the world has expanded and as people felt that much more could be done by an organisation like the Red Cross. The fourth convention has now come to recognise that the civilian population can no longer be ignored. Everything has been so clearly explained by the Minister that I do not want to take up any time in repeating what he has already said but I would like to say one or two words in regard to what my hon. friend, Shri Bhupesh Gupta, said. He held forth for a long time and said, "What is the good of Conventions? Everybody ignores them". I know that evil exists in this world but that does not mean that good has not got to battle against it all the time. War in itself is a brutal thing and during war man sinks to the level of the animal but that does not mean that all the time we have not got to be exhorting both governments and human beings to be human in their dealings with mankind even during such an awful calamity as war if it happens to overtake this world. Moreover, it seems that there is no organisation other than the International Red Cross which has throughout its nearly hundred years of existence kept the world attention glued or rather, kept the attention of the world rivetted to the ideals for which it stands and in that line it has made ample contribution. May I say that whenever any country, angry with the United Nations or with the League of Nations, has walked out of those forums, not a single country has ever walked out from the forum of the International Red Cross, and I believe I am right in saying that today we have more member nations in the

International Red Cross than even the United Nations.

Now, these conventions have been drawn up with the utmost care. Many months may elapse, many years may elapse, but the consent of the national Red Cross Society is always taken and the greatest measure of agreement is sought to be arrived at. Nothing in any convention is arrived at without due care, without due analysis and without the consent of everybody. I would like, however, to say that I too am a little worried at the length of time that it has taken the Government of India to bring this Bill before Parliament for ratification because actually this convention was signed in 1949 and our Government was a party to it. You are aware that in the International Red Cross, as far as the conventions are concerned, the Governments of the member-nations are members of the International Red Cross; then, of course, there are the national societies which are also members of the Red Cross but they work much more as far as peace-time effort is concerned and they naturally have not got governmental responsibilities. I would like to say that in spite of the fact that these conventions may be ignored or abrogated during the time of war, the International Red Cross does a lot of work during peace time. Even today, for the prisoners of war in the camps in Algiers, the International Red Cross is doing a lot of work. The Red Cross has made very good recommendations in respect of the prisoners of war there. They do work with single-minded devotion. There is no inhibition at all in the recommendations as you may have judged from the recent report that has been issued after the Committee went and interviewed the prisoners in the prison camps in Algiers. There is never any question of taking sides with anybody. The Red Cross takes no sides; it is not interested in politics. It conforms to the ideals of the Red Cross which are purely limited, may I say, to the requirements of humanity. As the Minister rightly said, it is the

moral law which is sought to be imposed even more than the conventional law or the law of any country or even the international law and it is in that spirit that we have got to look upon these conventions and in that spirit we have got to accept everything that is embodied in this Bill.

There is one request that I would like to make to the Minister. At the International Conference that was held two years ago, after a whole year and a half of sitting round tables, after consulting governments as well as national societies, draft rules were submitted for the acceptance of the national societies and of the governments concerned. These rules were in conformity with the ideals and requirements of humanity for the protection of the civilian population against the evils of war.

3 P.M.

Now, I would like this House to know that long before any summit conferences or the decisions to hold them were taken, we had committees to enquire into what atomic warfare would do if unfortunately any nation resorted to it. The Red Cross has been one organisation that has unanimously passed resolutions against nuclear warfare, against nuclear tests, against biological warfare, against chemical warfare and all these awful things and always with a unanimous voice. They may not have been listened to but the fact remains that it has had a forum which does command the attention of the entire world and always we get the most responsive appreciation for these resolutions from the Secretary-General of the United Nations. These draft rules that we submitted were meant to be examined by the Governments and it may be that, after the Governments have accepted these draft rules, we may have to propose a further Convention which will have to come up for ratification before Parliament. After all for anything that refers to the requirements

of humanity—where the protection of any part of the population of any country is concerned—naturally the Defence Ministry of the country will have to come in and I would beg of the Minister to see those draft rules and approve them. They have been approved by the representatives of Governments at the last international conference. We, as the national society, have referred them to the Health Ministry on more than one occasion. We have also sent copies of them to the Ministry of External Affairs. I do not know whether they have come as far as the Defence Ministry but if they have not, I will myself send copies of those to the Minister and I would ask him again to expedite Government's approval of those draft rules so that the International Committee may know that the Government of India stands by those rules also. I think any delay in these matters is unfortunate. Why this delay took place as far as this Bill is concerned, I do not know, but I do hope that the Government's formal approval—because the Government has already approved those draft rules—will not be further delayed. With these few words, I have much pleasure in supporting this measure and I hope the House will pass it unanimously.

SHRI AMOLAKH CHAND: Mr. Vice-Chairman, I rise to support the Bill as passed by the Lok Sabha. Every speaker who spoke before me has tried to show that there has been undue delay in presenting these matters before the Houses of Parliament. As we see, these Conventions were agreed to in 1949 and our President, after India became a Republic, ratified it on the 16th October, 1950. Actually, all these four things listed as Schedules I, II, III and IV, have come into force and are the legal laws of the land. As a part of the international agreement, it is also necessary that the legislatures of the countries should also put them on their own Statute Books. As we find, there was a Geneva Convention

[Shri Amolakh Chand.]

Act of 1911; that was an Act of the United Kingdom which applied to India and thereafter these provisions are being carried on. There had been no difficulty. But the point I would like to remind the House of is that after attaining our independence we had many other pieces of legislation to be brought before the two Houses of Parliament and there were many other problems which occupied our attention and demanded our consideration and we should not today say, 'All right, we are approving it or rubber-stamping it because it is already in force and the matter has been brought before us after a long delay.' I submit that the delay is not intentional but it is simply because both Houses were fully busy with other important matters and although this matter is important from an international point of view, it is not necessary that it should be immediately brought before the House.

Now, let us look into these Conventions and see what they are. The first one which is in Schedule I deals with the condition of the wounded and sick in armed forces in the field. The second Convention deals—as Rajkumariji has rightly pointed out it has been dealt with by the Red Cross—with the amelioration of the condition of the wounded, sick and shipwrecked members of armed forces at sea. The third relates to the treatment of prisoners of war and the fourth one relates to the protection of civilian persons in time of war. As a matter of fact, the war was over and only after that these Conventions were agreed to but since then in this atomic age things have become quite different. Personally I think that even the ratification of these Conventions and our putting them on the Statute Book would not meet the needs of the present day and that need, to my mind, is the need for which India stands today on the international front and India can take some positive steps and she

can initiate more such Conventions which can be followed by all the countries in cases where these atomic and nuclear weapons are being tried. I would in this connection refer to the latest atomic explosion in the Sahara.

RAJKUMARI AMRIT KAUR: May I inform the hon. Member that the draft rules which I mentioned refer to present-day conditions? They are before the Government now and they are absolutely up-to-date.

SHRI AMOLAKH CHAND: I am grateful to the hon. Member for having enlightened me on the subject but the point I was trying to make out was that these are the things with which we should be more concerned and steps should be taken to put them on the Statute Book of India as well as of all other countries. All these Conventions will apply when there is an actual war or when the war is over. Now, this testing of atomic weapons, atomic radiation and the loss of property and human lives that follow are questions which should be very seriously considered. Now, Sir, I had an opportunity of seeing a few persons who suffered as a result of atomic explosions in Hiroshima in Japan. I was in Japan when some of those people who suffered were taken to the United States and thereafter with plastic surgery and other treatment they were brought back to Japan and in Tokyo there was appreciation and jubilation at the fact that the country which was responsible for their suffering had done something of this sort. Supposing this radio active element creates a tangible amount of mischief to the population of a country, what would be the position? I am very grateful to Rajkumariji; she knows much more about it and certainly her organisation would come in and try to help them but the question is whether that Government could get some compensation or some contribution from the country as a result of whose explosions all these

things have happened. I am only drawing the attention of the House to this point that although these Conventions have been brought before us late, they are practically of no use at the moment, because the method of warfare has changed.

We have had the last World War and we do not expect that there will be another big world war, although people were hoping that there would be a Third World War and so on and so forth. Of course, there has been tension and explosions are to be found here and there, but by negotiations and by pursuing a peaceful policy, these things are being postponed or settled and people are now practically believing that it is very difficult to have a world war again. And unless and until there is a war, all these conventions which we are passing today would be of no value. Therefore, I wanted to bring this point before the hon. Defence Minister who is piloting this Bill, that there should be other conventions and I am not aware whether actually some steps are being taken now in international conferences for this purpose. But I do hope that the hon. Defence Minister, with all his resources and his international position, would certainly like to take some steps that would save these people and these countries which may suffer from these atomic tests, etc.

With these remarks, Sir, I end my observations in the hope that there would be another occasion for us to discuss some more conventions which would be really suited to the present circumstances and which would be more natural in the common life of the people and not relate only to things that result from war. Thank you.

SHRI V. K. KRISHNA MENON: Mr. Vice-Chairman, I would like to express the appreciation of the Government for the welcome that this Bill has received at the hands of this House and for the concern that speakers have expressed with regard

to many of the clauses, not by way of criticism, but that these provisions should be available and be of benefit to humanity. But the discussion has wandered a bit far from this Bill. As I said in the course of my remarks when introducing it, it is a bulky Bill, but the bulk of it has nothing to do with what we are doing here, in the sense that we are really legislating only twenty clauses. The others are subjects on which we are legislating. These are relevant naturally and there should be expression of opinion on them, but there is nothing that we can do about it. These are Conventions that have been passed. They are the results of an agreement or compromise and they have been accepted by the Government and we have signed the agreement. We have ratified them and we have undertaken to carry them out. The purpose of this Bill is to give Government powers beyond any legal dispute so that they may not challenge in the court whatever may be done to carry out this agreement.

However, there are two points which have been raised which I had better deal with first. First of all, it was asked why there has been this delay in introducing this Bill. In such a case you expect a Government Member to stand up and say there has been no delay. But of course, there has been delay. The Convention was passed in 1949. We signed it soon after that and in 1950 we began to operate it. It is only in 1956 that we took the next active step. Though it was not put in cold-storage or anything like that, it was only in 1956 that the Director-General of the Army Medical Services was made Chairman of a committee and then we had on it representatives from the External Affairs Ministry, the Ministry of Law, the Ministry of Health, and so on, to produce this Bill. As hon Members are aware the Government mill grinds very slowly, but surely, I hope, and it has taken some time. It came here in August of last year in this form, after being in print

[Shri V. K. Krishna Menon.]

for some time. Also ours is a Parliament which consumes much of its time in internal legislation, as is to be expected of a Parliament which has to work a written Constitution and in a country which is in the early stages of its development.

• There is still another reason for it. A country like ours which is not in the forefront of international affairs, in the sense that we are not a premier country, usually waits for some leading country to pass the necessary legislation. Now, one or two countries have passed such legislation. We have ratified it but the United Kingdom was the first to sanction or pass the necessary legislation and they passed it last year. Australia passed a legislation soon after and I believe in the Commonwealth we are the third country to do so. We wanted to get experience. Over and above all that, as the previous speaker said, this House was somewhat preoccupied, Parliament has been somewhat preoccupied, with other matters of concern.

That does not, however, answer the other point raised by the distinguished friend opposite and by others: What about the sanction of law? Have we not overlooked Parliament? Have we not got to rubber-stamp it? Now, there seems to be some misunderstanding. The Conventions have been ratified and under the Constitution ratification is the prerogative of the President. When the President has ratified a thing, Parliament can, of course, disapprove of it and throw out the Government, because Government advises the President, and in that event, certain other consequences follow. Apart from that no illegality follows. There is ratification by the President and . . .

SHRI BHUPESH GUPTA: Sir, I concede that point. I have never disputed the fact that ratification is the prerogative of the President. What I said was that after having ratified it, after having brought it into force . . .

THE VICE-CHAIRMAN (SHRI DAHYABHAI V. PATEL): Order, order. He does not give way.

SHRI BHUPESH GUPTA: No, Sir, he has given way now. The Defence Minister yields in such cases, you see.

Well, what I said was that after you ratified it, and when this measure comes into force, there are certain provisions which for implementation require the sanction of law, the sanction of Parliament. That was not obtained in time. That is what I pointed out.

SHRI V. K. KRISHNA MENON: I was coming to that, if only my hon. friend had been a bit patient. No illegality arises because no lack of sanction exists. It is perhaps forgotten that we have already two pieces of legislation on the Statute Book, the Act of 1911 and the Act of 1936, in addition to the Orders-in-Council passed in the past. They gave Government enough powers to carry out whatever was required. If, however, the country had been involved in a war in the intervening period, perhaps a different situation would have arisen, in which case we would have rushed with the legislation or adopted some other sanctionary measures. I say all this because when constitutional points are raised, however harmless they may be, they have to be answered by Government which is in charge of the Bill. I say there has been no violation of any constitutional provisions. There has been no vacuum, no lacuna in the legislative process. We have had enough powers and even today without this Bill, we can amble along. But suppose a foreigner turned up here, who took service in Algeria or some other place, a person who is a non-Indian and he commits some crime against these Conventions, then under this law we would not have power to prosecute him or put him in prison or let him go. Also we would not be able to protect the Red Cross—maybe we can do that for that is under the old law—but not the Lion and Sun and two other emblems.

There are certain things like that. Nor would we be able, without audit queries, to provide money to defend anybody and there are things of that character. If it came to that, the Government with adequate majority in Parliament would come to Parliament and explain the position. So, there have been no breaches of the Constitution, no dangers of insomnia. The Constitution of the United States is different. The Congress Legislature of the United States has the power of ratification in the ultimate. The delay has been caused very largely because it is a new field for us. It happened in the case of many Conventions. Legislation undertaken by us in respect of Conventions only takes time. So I explained that.

With regard to the merits of these measures, they are not now under debate. What we are trying to do is to take powers for this purpose. That is all that this legislation contains. It is also said that everybody is concerned about these merits but nobody takes any notice of them. As I said in the beginning, these do not relate to the laws of war. It is not the purpose of the Red Cross which is a subject of this legislation. It is one of the bodies that have promoted these Conventions and, I think, it would be appropriate for this House to pay a tribute to them. We are not legislating for the Red Cross. We are legislating on a Convention on which we are all agreed. Anyway, neither this Convention nor its predecessor Conventions were intended to prevent war, nor did they lay down the rules of the conduct of war.

These Conventions do not say anything about the weapons that may not be used or about various rules. These Conventions relate purely to humanitarian problems and what should be done in regard to people who become the victims of war so that their condition should not be aggravated by certain practices. That is all that it says. That is why I made the distinction. I am sorry I was not sufficiently clear about this. I made

the distinction between what may be called laws of war—I gave the instance of soft nose bullet and, shall we say, the Geneva Perjury cases involving use of poison gases—and laws of peace. Suppose there was a treaty, shall we say, between X and Y countries. Afterwards they wage a war against each other. Now this is not an international war. It is not within the scope of this Convention to prevent war. In fact, this Convention would have no meaning except in the context of war or other things.

SHRI BHUPESH GUPTA: This certainly relates to certain matters which may arise in the course of a war.

SHRI V. K. KRISHNA MENON: Exactly it presupposes the existence of a war.

SHRI BHUPESH GUPTA: As you know, the International Law in such matters is divided in two parts—law of peace and law of war. I suppose if it were to be added to that law it would come in the second volume.

SHRI V. K. KRISHNA MENON: It is not a question of volume. You can put the two things in one volume, if you like. That is not the point. The point is that it does not really relate to the regulation of the conduct of war or the regulation of the conduct of belligerents. It relates to the conditions, processes and measures of amelioration of those people who are likely to be affected or are likely to become victims of war and also applies certain injunctions on those people who may create those conditions. That is all it does. Therefore, you cannot say that this would prevent war. Of course, it would not. If it could prevent war it would not be necessary.

Then we ask: What about this atomic warfare? Well, there is some point in this because when this Convention was passed in 1949, the first atomic bomb was exploded in New Mexico in 1945. Afterwards it was exploded in Hiroshima and Nagasaki.

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In 1949 the two Power Blocs were inter-blocked in a deadly conflict on the question of atomic destruction and they would not come to an agreement. We would not have got any Convention through in Geneva. I mentioned that. We had to take the world as it was. In fact, the 1940 Convention was merely a postponed business with experiences gained by World War II, as I said in the morning. There was a proposal to call this Conference in 1940 but it was interrupted by war. The later Convention came much later. It is certainly quite true that in 1940 a different set of Conventions might have emerged.

Now comes Mr. Amolakh Chand's suggestion as to why we did not do something about it. Of course, we should do something about it, especially those countries which are likely to make an impact upon this sort of thing. But there is one consideration which we always have in mind, viz., that any legislation of this character really depends not on any coercive powers but on the power sanctioned by the moral accent and for that we must get the support of a large body of opinions. Does anybody believe that it is possible to get a Convention in regard to radiation created by the United States, the Soviet Union, France or Israel or anybody else? It is quite true that once we get the suspension of nuclear explosions, it is possible that we may get some Convention in regard to the effects of radiation and things of that character. But at the same time it should be borne in mind that it in no way effects this particular position.

Now as regards the point as to what would happen in the event of a war, it depends on the nature of a war. It is unrealistic to think that because atomic weapons of mass destruction and ballistic missiles have come into existence to protect great powers, the older conventional weapons should be out of consideration

any more than the use of motor-cars and bullock-carts. Large numbers of people will still use bullock-carts. There are today, for example, in our interior, actions of this kind or in other parts of the world and these Conventions are applicable to them.

[MR. DEPUTY CHAIRMAN in the Chair]

Then the question is raised that in war-time everything goes to pieces. Mr. Deputy Chairman, that sounds rhetorical. Let anything go to pieces. In war-time even the Red Cross, that repatriates, is affected. Now there was a war going on in Algeria and no one else except those coming under the Geneva Conventions could go inside the prisons. There was a war in Korea between the United Nations Command and South Koreans on the one side and North Koreans and Chinese volunteers on the other. I do not want to import any personal element. There came a time when there was a possibility of the war coming to an end. The two parties negotiated to come to an armistice agreement. They agreed on 61 articles but they could not agree on the 62nd. Therefore, the whole armistice was held up for two years, and during that period at least two million people died. This country played some part in it. The whole negotiation in the settlement was based, not upon the clauses of the Geneva Conventions, but on humanitarian aspects of the Geneva Conventions which led to the Chinese Government proclaiming their adherence to the Geneva Convention of 1949. So it is not correct to say that even in this sordid world of ours these measures have not some value. Those who naturally seek perfection, who are idealist in their minds, are even inclined to be cynical themselves. Cynicism is a sour aspect of idealism, as it is. Therefore, it is not correct to say that even in the situation in which we are with our limitations in things of this kind, these things have no value because a war did break out though it was not one of atomic annihilation. Even if

we are involved in such a position, there it has some value with regard to the treatment of the wounded, with regard to the prisoners, this, that and the other. Well, of course, if a country refused to carry them out—Hitler refused to carry them out—then the situation which arises out of such a conduct has to be faced. That is all I can say.

All other matters are covered by the Bill. Mr. Bhupesh Gupta also raised the point which is again something that we ought to be seized of. Now, it is all very well to say that let this Convention provide for putting offenders in prison. But how do you put a great power into prison? I am surprised at that statement. You do not put a power into prison. No power can operate except through individuals. This is clear from the trial of Nuremberg; that is to say, it is not only the country that is held liable but also the individual who is held liable. If an individual does something in X country, which is against this Convention, and he comes to this land, we can, under this law, take cognizance of that offence and launch the prosecution. We would not be prosecuting the X country; we would be prosecuting the individual. It is quite true that behind that individual there is the political and economic power of his country but that is a matter of political relations which applies to everything else. Now, for the first time, in the Nuremberg trial they laid responsibility of war crimes, not on the individual but on the country concerned. They said the individual could not use a deadly poison or bleed the individual by pulling his skin off. The Government of India and the United Nations have made a proposal on those terms and suggest that if it is proposed to enforce disarmament, not only there should be Conventions as between nations, but also there should be some international law worked out against individual offenders to bring them to book. That means that great statesmen and so on would think

twice before violating Conventions of that character. So it is not correct to say that you cannot take action because a powerful State is involved. Out of general considerations even when a national of a powerful State commits a crime against our domestic laws right under our nose, sometimes we may close our eyes. That is probably because of certain political relationship but over and above that, it is not correct to say that the offender cannot be brought under the scope of these provisions. That is the position.

I have answered all these questions. Sir, I commend the Bill to the House for adoption.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to enable effect to be given to certain international Conventions done at Geneva on the twelfth day of August, 1949, to which India is a party, and for purposes connected therewith, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

Clauses 2 to 20 were added to the Bill.

The Schedules, First to Fourth, were added to the Bill.

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

SHRI V. K. KRISHNA MENON: Sir, I move:

"That at the Bill be passed."

The question was put and the motion was adopted.