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Paswan, Shri Ram Vilas (Hajipur)

Paswan, Shri Ramchandra (Rosera)

Paswan, Shri Sukdeo (Araria)

Patasani, Dr. Prasanna Kumar (Bhubaneswar)

Patel, Dr. A.K. (Gujarat)

Patel, Dr. Ashok (Fatehpur)

Patel, Shri Ahmed (Gujarat)

Patel, Shri Atmaram Bhai (Mehsana)

Patel, Shri Chandresh (Jamnagar)

Patel, Shri Dahyabhai Vallabhbhai (Daman and Diu)

Patel, Shri Deepak (Anand)

Patel, Shri Dharm Raj Singh (Phulpur)

Patel, Shri Dinsha (Kaira)

Patel, Shri Mansinh (Mandvi)

Patel, Shri Mukesh R. (Maharashtra)  
Patel, Shri Praful (Maharashtra)  
Patel, Shri Prahlad Singh (Balaghat)  
Patel, Shri Tarachand Shivaji (Khargone)  
Pathak, Shri Harin (Ahmedabad)  
Patil (Yatnal), Shri Basangouda R. (Bijapur)  
Patil, Shri Amarsinh Vasantrao (Belgaum)  
Patil, Shri Annasaheb M.K. (Erandol)  
Patil, Shri Balasaheb Vikhe (Kopergaon)  
Patil, Shri Bhaskarrao (Nanded)  
Patil, Shri Danve Raosaheb (Jaina)  
Patil, Shri Jaysingrao Gaikwad (Beed)  
Patil, Shri Laxmanrao (Satara)  
Patil, Shri Prakash V. (Sangli)  
Patil, Shri R.S. (Bagalkot)  
Patil, Shri Shivraj V. (Latur)  
Patil, Shri Shrinivas (Karad)  
Patil, Shri Uttamrao (Yavatmal)  
Patnaik, Shrimati Kumudini (Aska)  
Patwa, Shri Sundar Lal (Hoshangabad)  
Pawaiya, Shri Jaibhan Singh (Gwalior)  
Pawar, Shri Sharad (Baramati)  
Pillai, Shri S. Ramachandran (Kerala)  
Pilot, Shrimati Rama (Dausa)  
Ponnuswamy, Shri E. (Chidambaram)  
Potai, Shri Sohan (Kanker)  
Poulose, Shri C.O. (Kerala)  
Prabhu, Shri Suresh (Rajapur)  
Pradhan, Dr. Debendra (Deogarh)  
Pradhan, Shri Ashok (Khurja)  
Pradhan, Shri Satish (Maharashtra)  
Pramanik, Prof. R.R. (Mathurapur)  
Prasad, Shri Ravi Shankar (Bihar)  
Prasad, Shri V. Sreenivasa (Chamrajanagar)

Premachandran, Shri N.K. (Kerala)  
Premajam, Prof. A.K. (Badagara)  
Puglia, Shri Naresh (Chandrapur)  
Punj, Shri Balbir K. (Uttar Pradesh)

## Q

Qureshi, Shri Abdul Gaiyur (Madhya Pradesh)

## R

Radhakrishnan, Shri C.P. (Coimbatore)  
Radhakrishnan, Shri Pon (Nagercoil)  
Radhakrishnan, Shri Varkala (Chirayinkil)  
Raghavan, Shri V.V. (Kerala)  
Rai, Shri Lajpat (Punjab)  
Rai, Shri Nawal Kishore (Sitamarhi)  
Rai, Shrimati Kum Kum (Bihar)  
Raikar, Shrimati Bimba (Karnataka)  
Raja Ramanna, Dr. (Nominated)  
Raja, Shri A. (Perambalur)  
Rajagopal, Shri O. (Madhya Pradesh)  
Rajbangshi, Shri Madhab (Mangaldoi)  
Raje, Shrimati Vasundhara (Jhalawar)  
Rajendran, Shri P. (Quilon)  
Rajesh Ranjan alias Pappu Yadav, Shri (Purnea)  
Rajkumar, Dr. Alladi P. (Andhra Pradesh)  
Rajukhedi, Shri Gajendra Singh (Dhar)  
Ram Sajivan, Shri (Banda)  
Ram, Shri Braj Mohan (Palamu)  
Ramachandraiah, Shri C. (Andhra Pradesh)  
Ramachandran, Shri Gingee N. (Tindivanam)  
Ramaiah, Dr. B.B. (Eluru)  
Ramaiah, Shri Gunipati (Rajampet)  
Raman, Dr. (Rajnandgaon)  
Ramaswamy, Shri Cho S. (Nominated)  
Ramoowalia, Shri Balwant Singh (Uttar Pradesh)  
Ramshakal, Shri (Robertsganj)

Ramulu, Shri H.G. (Koppal)  
Rana, Shri Kashiram (Surat)  
Rana, Shri Raju (Bhavnagar)  
Rao, Dr. D. Venkateshwar (Andhra Pradesh)  
Rao, Dr. D.V.G. Shankar (Parvathipuram)  
Rao, Dr. Dasari Narayana (Andhra Pradesh)  
Rao, Shri Ch. Vidyasagar (Karimnagar)  
Rao, Shri Ganta Sreenivasa (Anakapalli)  
Rao, Shri K. Kalavenkata (Andhra Pradesh)  
Rao, Shri K. Rama Mohana (Andhra Pradesh)  
Rao, Shri S.B.P.B.K. Satyanarayana (Rajahmundry)  
Rao, Shri Y.V. (Guntur)  
Rao, Shri Yadlapati Venkat (Andhra Pradesh)  
Rashid, Mirza Abdul (Jammu and Kashmir)  
Rashtrapal, Shri Pravin (Patan)  
Rathwa, Shri Ramsinh (Chhota Udepur)  
Rau, Shrimati Prabha (Wardha)  
Ravi, Shri Sheesh Ram Singh (Bijnor)  
Rawale, Shri Mohan (Mumbai South Central)  
Rawat, Prof. Rasa Singh (Ajmer)  
Rawat, Shri Pradeep (Pune)  
Rawat, Shri Ramsagar (Barabanki)  
Ray, Prof. (Shrimati) Bharati (West Bengal)  
Ray, Shri Bishnu Pada (Andaman and Nicobar Islands)  
Ray, Shri Dilip (Orissa)  
Rebello, Miss Mabel (Madhya Pradesh)  
Rebia, Shri Nabam (Arunachal Pradesh)  
Reddy, Dr. C. Narayana (Nominated)  
Reddy, Shri A.P. Jithender (Mahabubnagar)  
Reddy, Shri B.V.N. (Nandyal)  
Reddy, Shri Chada Suresh (Hanamkonda)  
Reddy, Shri G. Ganga (Nizamabad)  
Reddy, Shri Gutha Sukender (Nalgonda)  
Reddy, Shri N. Janardhana (Narasaraopet)

Reddy, Shri N.R.K. (Chittoor)  
Reddy, Shri P. Prabhakar (Andhra Pradesh)  
Reddy, Shri S. Jaipal (Miryalguda)  
Reddy, Shri Solipeta Ramachandra (Andhra Pradesh)  
Reddy, Shri Y.S. Vivekananda (Cuddapah)  
Renu Kumari, Shrimati (Khagaria)  
Riyan, Shri Baju Ban (Tripura East)  
Rizvi, Dr. Akhtar Hasan (Uttar Pradesh)  
Rizwan Zahir, Shri (Balrampur)  
Rongpi, Dr. Jayant (Autonomous District Assam)  
Roy Chowdhury, Shri Shankar (West Bengal)  
Roy Pradhan, Shri Amar (Coochbehar)  
Roy, Shri Abani (West Bengal)  
Roy, Shri Jibon (West Bengal)  
Roy, Shri Subodh (Bhagalpur)  
Rudy, Shri Rajiv Pratap (Chhapra)  
Rumandla Ramachandraiah, Shri (Andhra Pradesh)

## S

Sahu, Shri Anadi (Berhampur, Orissa)  
Sahu, Shri Tarachand (Durg)  
Sai, Shri Vishnudeo (Raigarh)  
Saiduzzama, Shri (Muzaffarnagar)  
Saifullah, Shri K.M. (Andhra Pradesh)  
Salve, Shri N.K.P. (Maharashtra)  
Samadani, Shri M.P. Abdussamad (Kerala)  
Samal, Shri Man Mohan (Orissa)  
Samantray, Shri Prabhat (Kendrapara)  
Sanadi, Prof. I.G. (Dharwad South)  
Sanghani, Shri Dileep (Amreli)  
Sangma, Shri Purno A. (Tura)  
Sangtam, Shri K.A. (Nagaland)  
Sangwan, Shri Kishan Singh (Sonapat)  
Sankaralingam, Prof. M. (Tamil Nadu)  
Sankeshwar, Shri Vijay (Dharwad North)

Sankhwar, Shri Pyare Lal (Ghatampur)  
Sar, Shri Nikhilananda (Burdwan)  
Saradgi, Shri Iqbal Ahmed (Gulbarga)  
Sarath Kumar, Shri R. (Tamil Nadu)  
Sarkar, Dr. Bikram (Panskura)  
Sarma, Dr. Arun Kumar (Assam)  
Sarma, Shrimati Basanti (Assam)  
Saroj, Shri Tufani (Saidpur)  
Saroj, Shrimati Sushila (Misrikh)  
Saroja, Dr. V. (Rasipuram)  
Sathi, Shri Harpal Singh (Haridwar)  
Sayeed, Shri P.M. (Lakshadweep)  
Scindia, Shri Jyotiraditya M. (Guna)  
Selvaganpathi, Shri T.M. (Salem)  
Sen, Shri Mrinal (Nominated)  
Sen, Shrimati Minati (Jalpaiguri)  
Sengupta, Dr. Nitish (Contai)  
Sengupta, Shri Bratin (West Bengal)  
Seth, Shri Lakshman (Tamluk)  
Sethi, Shri Ananta (Orissa)  
Sethi, Shri Arjun (Bhadrak)  
Shah, Shri Manabendra (Tehri Garhwal)  
Shahabuddin, Mohd. (Siwan)  
Shaheen, Shri Abdul Rashid (Baramulla)  
Shakya, Shri Raghuraj Singh (Etawah)  
Shandil, Col. (Retd.) Dr. Dhani Ram (Shimla)  
Shanmugam, Shri N.T. (Vellore)  
Shanta Kumar, Shri (Kangra)  
Sharda, Shrimati Savita (Gujarat)  
Shariq, Shri Sharief-Ud-Din (Jammu and Kashmir)  
Sharma, Capt. Satish (Raebareli)  
Sharma, Dr. Mahesh Chandra (Rajasthan)  
Sharma, Shri Anil (Himachal Pradesh)  
Shashi Kumar, Shri (Chitradurga)

Shervani, Shri Saleem I. (Badaun)  
Shinde, Shri Sushil Kumar (Solapur)  
Shirodkar, Shri Adhik (Maharashtra)  
Shourie, Shri Arun (Uttar Pradesh)  
Shukla, Shri Rajeev (Uttar Pradesh)  
Shukla, Shri Shyamacharan (Mahasamund)  
Shyam Lal, Shri (Uttar Pradesh)  
Sibal, Shri Kapil (Bihar)  
Sikdar, Shri Tapan (Dumdum)  
Singh Deo, Shri K.P. (Dhenkanal)  
Singh Deo, Shrimati Sangeeta Kumari (Bolangir)  
Singh 'Lalan', Shri Rajiv Ranjan (Bihar)  
Singh 'Surya', Shri Rajnath (Uttar Pradesh)  
Singh, Capt. (Retd.) Inder (Rohtak)  
Singh, Ch. Tejveer (Mathura)  
Singh, Dr. Raghuvansh Prasad (Vaishali)  
Singh, Dr. Ram Lakhan (Bhind)  
Singh, Kunwar Akhilesh (Maharajganj, U.P.)  
Singh, Kunwar Sarv Raj (Aonla)  
Singh, Sardar Buta (Jalore)  
Singh, Shri Ajit (Baghpat)  
Singh, Shri Amar (Uttar Pradesh)  
Singh, Shri Arjun (Madhya Pradesh)  
Singh, Shri Bahadur (Bayana)  
Singh, Shri Balbir (Jalandhar)  
Singh, Shri Birabhadra (Orissa)  
Singh, Shri Brij Bhushan Sharan (Gonda)  
Singh, Shri C.N. (Machhlishahar)  
Singh, Shri Chandra Bhushan (Farrukhabad)  
Singh, Shri Chandra Pratap (Sidhi)  
Singh, Shri Chandra Vijay (Moradabad)  
Singh, Shri Charanjit (Hoshiarpur)  
Singh, Shri Chhatrapal (Bulandshahar)  
Singh, Shri Devi Prasad (Uttar Pradesh)

Singh, Shri Digvijay (Banka)  
Singh, Shri Jai Bhadra (Sultanpur)  
Singh, Shri Jaswant (Rajasthan)  
Singh, Shri Khel Sai (Sarguja)  
Singh, Shri Lakshman (Rajgarh)  
Singh, Shri Maheshwar (Mandi)  
Singh, Shri Prabhunath (Maharajganj, Bihar)  
Singh, Shri Radha Mohan (Motihari)  
Singh, Shri Rajo (Begusarai)  
Singh, Shri Ram Prasad (Arrah)  
Singh, Shri Ramanand (Satna)  
Singh, Shri Ramjivan (Balua, Bihar)  
Singh, Shri Rampal (Domariaganj)  
Singh, Shri Surendra Kumar (Chhattiegarh)  
Singh, Shri Th. Chaoba (Inner Manipur)  
Singh, Shri Tilakdhari Prasad (Kodarma)  
Singh, Shri Vishvendra (Bharatpur)  
Singh, Shri W. Angou (Manipur)  
Singh, Shrimati Kanti (Bikramganj)  
Singh, Shrimati Rajkumari Ratna (Pratapgarh)  
Singh, Shrimati Shyama (Aurangabad, Bihar)  
Singhal, Shri B.P. (Uttar Pradesh)  
Singhvi, Dr. L.M. (Rajasthan)  
Sinha, Shri Manoj (Gazipur)  
Sinha, Shri Shatrughan (Bihar)  
Sinha, Shri Yashwant (Hazaribagh)  
Singireddy, Shri Rama Muni Reddy (Andhra Pradesh)  
Siva, Shri P.N. (Tamil Nadu)  
Sivakumar, Shri V.S. (Thiruvananthapuram)  
Sivasubramanian, Shri S. (Tamil Nadu)  
Solanki, Shri Bhupendrasinh (Godhra)  
Solanki, Shri Gopalsinh G. (Gujarat)  
Somaiya, Shri Kirit (Mumbai North East)  
Soni, Shrimati Ambika (N.C.T. of Delhi)

Sorake, Shri Vinay Kumar (Udupi)  
Soundararajan, Shri P. (Tamil Nadu)  
Sreenivasan, Shri C. (Dindigul)  
Srikantappa, Shri D.C. (Chickmangalore)  
Srinivasulu, Shri Kalava (Anantapur)  
Subba, Shri M.K. (Tezpur)  
Subbian, Shri Ka. Ra. (Tamil Nadu)  
Sudarsana Natchiappan, Shri E.M. (Sivaganga)  
Sudheeran, Shri V.M. (Alleppey)  
Sukhbir Singh, Shri (Punjab)  
Suman, Shri Ramji Lal (Firozabad)  
Sunil Dutt, Shri (Mumbai North West)  
Suresh, Shri Kodikunnil (Adoor)  
Swain, Shri Kharabela (Balasore)  
Swami, Shri Chinmayanand (Jaunpur)  
Swami, Shri I.D. (Karnal)  
Swaraj, Shrimati Sushma (Uttaranchal)

## T

Thakkar, Shrimati Jayaben B. (Vadodara)  
Thakur, Dr. C.P. (Patna)  
Thakur, Shri Chunni Lal Bhai (Bhandara)  
Thakur, Shri Ramsheth (Kulaba)  
Thiksey, Shri Kushok (Jammu and Kashmir)  
Thirunavukkarasar, Shri Su (Pudukkottai)  
Thirunavukkarasu, Shri C.P. (Pondicherry)  
Thomas, Shri P.C. (Muvattupuzha)  
Tiwari, Shri Lal Bihari (East Delhi)  
Tiwari, Shri Nayaran Datt (Nainital)  
Tiwari, Shri Sunder Lal (Rewa)  
Tohra, Sardar Gurcharan Singh (Punjab)  
Tomar, Dr. Ramesh Chand (Hapur)  
Topdar, Shri Tarit Baran (Barrackpore)  
Topno, Miss Frida (Orissa)  
Tripathee, Shri Ram Naresh (Seoni)

Tripathi, Shri Prakash Mani (Deoria)  
Tripathy, Shri Braja Kishore (Puri)  
Tur, Shri Tarlochan Singh (Tarantaran)

## U

Uma Bharati, Kumari (Bhopal)

## V

Vaghela, Shri Shankersinh (Kapadvanj)  
Vahadane, Shri Suryabhan Patil (Maharashtra)  
Vaiko, Shri (Sivakasi)  
Vajpayee, Shri Atal Bihari (Lucknow)  
Vanga Geetha, Shrimati (Andhra Pradesh)  
Varma, Prof. R.B.S. (Uttar Pradesh)  
Varma, Shri Ratilal Kalidas (Dhandhuka)  
Vasava, Shri Mansukhbhai D. (Bharuch)  
Veerappa, Shri Ramchandra (Bidar)  
Venkataswamy, Dr. N. (Tirupati)  
Venkateshwari, Shri B. (Warangal)  
Venkateswari, Prof. Ummareddy (Tenali)  
Venugopal, Dr. S. (Adilabad)  
Venugopal, Shri D. (Tiruppattur)  
Verma, Dr. Sahib Singh (Outer Delhi)  
Verma, Prof. Rita (Dhanbad)  
Verma, Shri Beni Prasad (Kaisarganj)  
Verma, Shri Rajesh (Sitapur)  
Verma, Shri Ram Murti Singh (Shahjahanpur)  
Verma, Shri Ravi Prakash (Kheri)  
Verma, Shri Vikram (Madhya Pradesh)  
Vetriselvan, Shri V. (Krishnagiri)  
Vijaya Kumari, Shrimati D.M. (Bhadrachalam)  
Vijaya Raghavan, Shri A. (Kerala)  
Vijayan, Shri A.K.S. (Nagapattinam)  
Virendra Kumar, Shri (Sagar)

Virumbi, Shri S. Viduthalai (Tamil Nadu)  
Vukkala, Dr. Rajeswaramma (Nellore)  
Vyas, Dr. Girija (Udaipur)

## W

Wadiyar, Shri S.D.N.R. (Mysore)  
Wanaga, Shri Chintaman (Dahanu)  
Wangcha, Shri Rajkumar (Arunachal East)  
Warisa, Shri Prakanta (Assam)

## Y

Yadav 'Ravi', Dr. Ramendra Kumar (Bihar)  
Yadav, Chaudhary Harmohan Singh (Nominated)  
Yadav, Dr. (Shrimati) Sudha (Mahendragarh)  
Yadav, Dr. Jaswant Singh (Alwar)  
Yadav, Prof. Ram Gopal (Uttar Pradesh)  
Yadav, Shri Akhilesh (Kannauj)  
Yadav, Shri Balram Singh (Mainpuri)  
Yadav, Shri Bhal Chandra (Khalilabad)  
Yadav, Shri D.P. (Uttar Pradesh)  
Yadav, Shri Devendra Prasad (Jhanjharpur)  
Yadav, Shri Devendra Singh (Etah)  
Yadav, Shri Dinesh Chandra (Saharsa)  
Yadav, Shri Hukumdeo Narayan (Madhubani)  
Yadav, Shri Jagdambi Prasad (Godda)  
Yadav, Shri Mulayam Singh (Sambhal)  
Yadav, Shri Ramakant (Azamgarh)  
Yadav, Shri Ranjan Prasad (Bihar)  
Yadav, Shri Sharad (Madhepura)  
Yadav, Shri Vijay Singh (Bihar)  
Yerrannaidu, Shri K. (Srikakulam)

## Z

Zahedi, Shri Mahboob (Katwa)  
Zahidi, Shri Khan Ghufuran (Uttar Pradesh)  
Zawma, Shri Vanlal (Mizoram)

# JOINT SITTING OF THE HOUSES OF PARLIAMENT

THE SPEAKER  
(Vacant)

THE DEPUTY SPEAKER  
Shri P.M. Sayeed

THE DEPUTY CHAIRMAN  
Dr. (Shrimati) Najma Heptulla

## PANEL OF CHAIRMEN\*

Dr. Laxminarayan Pandeya, Lok Sabha  
Shrimati Margaret Alva, Lok Sabha  
Shri Basu Deb Acharia, Lok Sabha  
Shri K. Yerrannaidu, Lok Sabha  
Shri T.N. Chaturvedi, Rajya Sabha  
Shri Suresh Pachouri, Rajya Sabha

SECRETARY GENERAL  
Shri G.C. Malhotra

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\*The Members were chosen to preside over the Joint Sitting of two Houses of Parliament in the meeting of leaders of Lok Sabha and Rajya Sabha on 26.3.2002.

# GOVERNMENT OF INDIA

## MEMBERS OF CABINET

The Prime Minister	Shri Atal Bihari Vajpayee
The Minister of Home Affairs	Shri L.K. Advani
The Minister of Urban Development and Poverty Alleviation	Shri Ananth Kumar
The Minister of Environment and Forests	Shri T.R. Baalu
The Minister of Chemicals and Fertilizers	Shri Sukh Dev Singh Dhindsa
The Minister of Defence	Shri George Fernandes
The Minister of Shipping	Shri Ved Prakash Goyal
The Minister of Civil Aviation	Shri Syed Shahnawaz Hussain
The Minister of Tourism and Culture	Shri Jag Mohan
The Minister of Law, Justice and Company Affairs	Shri Arun Jaitley
The Minister of Social Justice and Empowerment	Dr. Satyanarayan Jatiya
The Minister of Heavy Industries and Public Enterprises	Shri Manohar Joshi
The Minister of Human Resource Development, Minister of Science and Technology and Minister of Ocean Development	Dr. Murli Manohar Joshi
The Minister of Parliamentary Affairs and Minister of Communications and Information Technology	Shri Pramod Mahajan
The Minister of Commerce and Industry	Shri Murasoli Maran
The Minister of Agro and Rural Industries	Shri Kariya Munda
The Minister of Rural Development	Shri M. Venkaiah Naidu
The Minister of Petroleum and Natural Gas	Shri Ram Naik
The Minister of Railways	Shri Nitish Kumar
The Minister of Tribal Affairs	Shri Jual Oram
The Minister of Coal and Mines	Shri Ram Vilas Paswan
The Minister of Power	Shri Suresh Prabhu



The Minister of Textiles	Shri Kashiram Rana
The Minister of Water Resources	Shri Arjun Sethi
The Minister of Consumer Affairs, Food and Public Distribution	Shri Shanta Kumar
The Minister of Disinvestment and Minister of Development of North Eastern Region	Shri Arun Shourie
The Minister of Agriculture	Shri Ajit Singh
The Minister of External Affairs	Shri Jaswant Singh
The Minister of Finance	Shri Yashwant Sinha
The Minister of Information and Broadcasting	Shrimati Sushma Swaraj
The Minister of Health and Family Welfare	Dr. C.P. Thakur
The Minister of Youth Affairs and Sports	Kumari Uma Bharati
The Minister of Labour	Shri Sharad Yadav

### **MINISTERS OF STATE (INDEPENDENT CHARGE)**

The Minister of State of the Ministry of Statistics and Programme Implementation	Shrimati Maneka Gandhi
The Minister of State of the Ministry of Food Processing Industries	Prof. Chaman Lal Gupta
The Minister of State of the Ministry of Non-Conventional Energy Sources	Shri M. Kannappan
The Minister of State of the Ministry of Road Transport and Highways	Maj. Gen. (Retd.) B.C. Khanduri
The Minister of State of the Ministry of Small Scale Industries, Minister of State in the Ministry of Personnel, Public Grievances and Pensions, Minister of State in the Ministry of Planning and Minister of State in the Departments of Atomic Energy and Space	Shrimati Vasundhara Raje
The Minister of State of the Ministry of Steel	Shri Braja Kishore Tripathy

### **MINISTERS OF STATE**

The Minister of State in the Ministry of Information and Broadcasting	Shri Ramesh Bais
The Minister of State in the Ministry of Water Resources	Shrimati Bijoya Chakravarty

The Minister of State in the Ministry of Urban Development and Poverty Alleviation	Shri Bandaru Dattatreya
The Minister of State in the Ministry of Petroleum and Natural Gas and Minister of State in the Ministry of Parliamentary Affairs.	Shri Santosh Kumar Gangwar
The Minister of State in the Prime Minister's Office	Shri Vijay Goel
The Minister of State in the Ministry of Heavy Industries and Public Enterprises	Dr. Vallabhbhai Kathiria
The Minister of State in the Ministry of Defence	Shri Krishnamraju
The Minister of State in the Ministry of Tribal Affairs	Shri Faggan Singh Kulaste
The Minister of State in the Ministry of Textiles	Shri V. Dhananjaya Kumar
The Minister of State in the Ministry of Human Resource Development	Shrimati Sumitra Mahajan
The Minister of State in the Ministry of Rural Development	Shri Subhash Maharia
The Minister of State in the Ministry of Power	Shrimati Jayawanti Mehta
The Minister of State in the Ministry of Chemicals and Fertilizers	Shri Satya Brata Mookherjee
The Minister of State in the Ministry of Labour	Shri Muni Lall
The Minister of State in the Ministry of Shipping	Shri Shripad Yasso Naik
The Minister of State in the Ministry of External Affairs	Shri Omar Abdullah
The Minister of State in the Department of Defence Production and Supplies of the Ministry of Defence	Shri Harin Pathak
The Minister of State in the Ministry of Rural Development	Shri Annasaheb M.K. Patil
The Minister of State in the Ministry of Consumer Affairs, Food and Public Distribution	Shri Ashok Pradhan
The Minister of State in the Ministry of Coal and Mines	Shri Ravi Shankar Prasad
The Minister of State in the Ministry of Youth Affairs and Sports	Shri Pon Radhakrishnan
The Minister of State in the Ministry of Health and Family Welfare	Shri A. Raja
The Minister of State in the Ministry of Parliamentary Affairs and Minister of State in the Ministry of Railways	Shri O. Rajagopal

**The Minister of State in the Ministry of  
Commerce and Industry**

**Dr. Raman**

**The Minister of State in the Ministry of Finance**

**Shri Gingee N. Ramachandran**

**The Minister of State in the Ministry of Home  
Affairs**

**Shri Ch. Vidyasagar Rao**

**The Minister of State in the Department of  
Science and Technology of the Ministry of  
Science and Technology**

**Shri Bachi Singh Rawat 'Bachda'**

**The Minister of State in the Ministry of  
Commerce and Industry**

**Shri Rajiv Pratap Rudy**

**The Minister of State in the Ministry of Commu-  
nications and Information Technology**

**Shri Tapan Sikdar**

**The Minister of State in the Ministry of Railways**

**Shri Digvijay Singh**

**The Minister of State in the Ministry of Consumer  
Affairs, Food and Public Distribution**

**Shri V. Sreenivasa Prasad**

**The Minister of State in the Ministry of Home  
Affairs**

**Shri I.D. Swami**

**The Minister of State in the Ministry of Human  
Resource Development**

**Prof. Rita Verma**

**The Minister of State in the Ministry of Finance**

**Shri Balasaheb Vikhe Patil**

**The Minister of State in the Ministry of Agriculture**

**Shri Hukumdeo Narayan Yadav**

## CONTENTS

Vol. I. No. 1, Tuesday, March 26, 2002/Chaitra 5, 1924 (Saka)

SUBJECT	COLUMNS
OBITUARY REFERENCES .....	4
WELCOME ADDRESS .....	5—6
BILL LAID ON THE TABLE .....	6
ANNOUNCEMENT BY DEPUTY SPEAKER	
Members Chosen to Preside over the Joint Sitting .....	7—10
PREVENTION OF TERRORISM BILL .....	10
Motion to Consider .....	10
Shri L.K. Advani .....	10
Shrimati Sonia Gandhi .....	27
Shri Manohar Joshi .....	32
Shri Somnath Chatterjee .....	39
Shri K. Yerrannaidu .....	49
Shri Mulayam Singh Yadav .....	51
Shri H.D. Deve Gowda .....	62
Shri Chandra Shekhar .....	68
Shri Arun Jaitley .....	70
Shri Kapil Sibal .....	87
Shri P.H. Pandian .....	107
Shri Digvijay Singh .....	111
Dr. Raghuvansh Prasad Singh .....	113
Shri Bhartruhari Mahtab .....	115
Shri C. Ramachandraiah .....	116
Shri J. Chitharanjan .....	120
Dr. Sushil Kumar Indora .....	124
Shri Purno A. Sangma .....	126
Shri H.K. Javare Gowda .....	128
Shri N.K. Premachandran .....	129
Shri P.D. Elangovan .....	131

SUBJECT	COLUMNS
Shri Ramjivan Singh .....	132
Shri Debabrata Biswas .....	134
Shri E. Ahamed .....	136
Shri R.S. Gavai .....	137
Dr. Jayant Rongpi .....	139
Shri Sanjay Nirupam .....	140
Shri E. Ponnuswamy .....	144
Shri Mohan Rawale .....	145
Shri Atal Bihari Vajpayee .....	154
Clauses 2 to 64 and 1 .....	184
Motion to Pass .....	184

# JOINT SITTING OF THE HOUSES OF PARLIAMENT

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Vol. I

No. 1

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## JOINT SITTING OF THE HOUSES OF PARLIAMENT

*Tuesday, March 26, 2002/Chaitra 5, 1924 (Saka)*

The Houses of Parliament met in Joint sitting  
in the Central Hall of Parliament House  
at Eleven of the Clock

*[MR. DEPUTY SPEAKER in the Chair]*

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Mr. Deputy Speaker, Sir, the Chief Minister of Gujarat has made a Statement that till the Parliament session continues...(Interruptions)

[English]

MR. DEPUTY SPEAKER: There are obituary references.

...(Interruptions)

MR. DEPUTY SPEAKER: I am on my legs.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, may I ask you to resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: Order please.

...(Interruptions)

MR. DEPUTY SPEAKER: I am on my legs.

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Basu Deb Acharia, I am on my legs.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, will you please resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, please resume your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Akhilesh Singh, please resume your seat.

...(Interruptions)

MR. DEPUTY SPEAKER: Let there be order in the House.

...(Interruptions)

11.03 hrs.

## OBITUARY REFERENCES

[English]

MR. DEPUTY SPEAKER: Hon. Members, before conducting the day's proceedings, let me first pay homage to the memory of Shri Ganti Mohanachandra Balayogi, the late Speaker, of Lok Sabha, who would have presided over this sitting had he been amidst us today.

I also pay homage to the nine security personnel of Watch and Ward of Parliament, Delhi Police and CRPF, who laid down their lives in defending the epitome of Indian democracy on 13th December, 2001 when terrorists made an abortive attempt to attack Parliament House.

I request all the Members to join me and stand in silence for a while as a mark of respect to the departed souls.

11.04 hrs.

*The Members then stood in silence for a short while.*

\_\_\_\_\_

...(Interruptions)

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Sir, the Chief Minister of Gujarat has made the statement that till the House continues...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Now, let me proceed with the work before us.

...(Interruptions)

MR. DEPUTY SPEAKER: Please do not do like this.

...(Interruptions)

MR. DEPUTY SPEAKER: I will give you the floor.

...(Interruptions)

MR. DEPUTY SPEAKER: If you have a point of order, I will give you the floor. Let us have order in the House.

\_\_\_\_\_

...(Interruptions)

MR. DEPUTY SPEAKER: Let us start.

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Sunil Khan, let us start the Business. Then, I will give you the floor.

...(Interruptions)

11.07 hrs.

### WELCOME ADDRESS

[English]

MR. DEPUTY SPEAKER: Hon. Members, I welcome you all to this Joint Sitting of both the Houses of Parliament. This is the third occasion when the Parliament is meeting in such a Sitting. The first occasion was in the context of the establishment of the Dowry Prohibition Act in 1961. The second one was for enacting the Banking Services Commission (Repeal) Act, in 1978. We are assembled today for consideration of and voting on the Prevention of Terrorism Bill, 2002.

...(Interruptions)

MR. DEPUTY SPEAKER: The Bill seeks to replace the Prevention of Terrorism Second (Ordinance), 2001 which was passed by the Lok Sabha on 18h March, 2002 but rejected by the Rajya Sabha on 21st March, 2002.

...(Interruptions)

MR. DEPUTY SPEAKER: The device of Joint Sitting of the Houses, as all of you are aware, is designed for articulating the will of the sovereign people of India through the totality of their representatives in the Parliament as part of our democratic process.

...(Interruptions)

MR. DEPUTY SPEAKER: The occasion calls for deliberations marked by seriousness, mutual respect and harmony amongst the Members. I look forward to your cooperation for transaction of the Business accordingly.

...(Interruptions)

MR. DEPUTY SPEAKER: Now, Secretary-General to lay the Bill on the Table.

...(Interruptions)

MR. DEPUTY SPEAKER: I will give you the floor later.

...(Interruptions)

MR. DEPUTY SPEAKER: Let the Business start. I promised you that I would give you the floor. Please do not do like this.

...(Interruptions)

MR. DEPUTY SPEAKER: Now, Bill to be laid on the Table. Secretary-General.

11.09 hrs.

### BILL LAID ON THE TABLE

[English]

SECRETARY GENERAL: Sir, I beg to lay on the Table the "Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith, as passed by Lok Sabha and rejected by Rajya Sabha.

[English]

MR. DEPUTY SPEAKER: Now, let me tell you one thing.

...(Interruptions)

[Translation]

MR. DEPUTY SPEAKER: I will hear you but first let the House continue its proceeding I will hear you only when the proceedings start. Let the House continue its proceedings.

...(Interruptions)

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Mr. Deputy Speaker, Sir, the Chief Minister of Gujarat said that till the House continues\*\*...(Interruptions)

[English]

MR. DEPUTY SPEAKER: I will come to that. I will hear you.

...(Interruptions)

\*Copies were circulated to Members on 23 March, 2002.

\*\*Expunged as ordered by the Chair.



11.10 hrs.

## ANNOUNCEMENT BY DEPUTY SPEAKER

### Members chosen to Preside over the Joint Sitting

[English]

MR. DEPUTY SPEAKER: As per the decision taken in the meeting of Leaders of Rajya Sabha and Lok Sabha held today, the following Members have been chosen to preside over the Joint Sitting of the two Houses of Parliament:

1. Dr. Laxminarayan Pandeya, Lok Sabha
2. Shrimati Margaret Alva, Lok Sabha
3. Shri Basu Deb Acharia, Lok Sabha
4. Shri K. Yerranaidu, Lok Sabha
5. Shri T.N. Chaturvedi, Rajya Sabha
6. Shri Suresh Pachouri, Rajya Sabha

MR. DEPUTY SPEAKER: Shri L.K. Advani, hon. Minister of Home Affairs....(Interruptions)

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Mr. Deputy Speaker, Sir, you said that you would listen to us...(Interruptions) Please listen for a minute...(Interruptions)

[English]

MR. DEPUTY SPEAKER: After the Motion is moved, I would hear you, Dr. Raghuvansh Prasad Singh.

...(Interruptions)

[Translation]

DR. RAGHUVANSH PRASAD SINGH: Mr. Deputy Speaker, Sir, it is a draconian law...(Interruptions) It will ruin the country...(Interruptions) \*

The Chief Minister of Gujarat has said that till the House continues...(Interruptions)

[English]

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): In the Joint Sitting...(Interruptions)

MR. DEPUTY SPEAKER: I would hear you, Shri Pramod Mahajan. One hon. Member at a time please.

...(Interruptions)

[Translation]

DR. RAGHUVANSH PRASAD SINGH : Mr. Deputy Speaker, Sir, the joint sitting has been convened because POTO Bill was rejected in the Rajya Sabha. By bringing this Bill, the Government are dividing the country into parts...(Interruptions) In such a situation when sitting has been convened..\*

[English]

MR. DEPUTY SPEAKER: The President has called this Session for the purpose of transacting the business on the Prevention of Terrorism Bill. I would not allow any other matter to be discussed here.

...(Interruptions)

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT, MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF OCEAN DEVELOPMENT (DR. MURLI MANOHAR JOSHI): This should be expunged. Whatever he has said should not go on record...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members I am telling you that this Session has been convened by the President of India for a specific purpose, that is, to deliberate and vote on the Prevention of Terrorism Bill.

Therefore, I will not allow anybody to raise any other matter here. Now, the hon. Home Minister.

...(Interruptions)

MR. DEPUTY SPEAKER: The point of order raised by Dr. Raghuvansh Prasad Singh is out of order. It is to be expunged.

...(Interruptions)

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\*Expunged as ordered by the Chair.

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\*Expunged as ordered by the Chair.

SHRI G.M. BANATWALLA (Ponnani): Mr. Deputy Speaker, Sir, I am on point of order. Under article 108 of the Constitution, the Bill cannot be moved...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Banatwalla, this session has been convened by the President to transact this business only. I will not allow anything else to be raised now.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Nothing will go on record, except what the hon. Home Minister says.

...*(Interruptions)* \*

MR. DEPUTY SPEAKER: Shri Banatwalla, you can refer to it in your speech, not now.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Kunwar Akhilesh Singh, please do not disturb the House.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Banatwalla, please resume your seat.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Nothing will go on record.

...*(Interruptions)* \*

MR. DEPUTY SPEAKER: This session is meant for transacting Prevention of Terrorism Bill and that is the purpose for which the President of India has summoned all of us here. No other matter can be discussed now.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Banatwalla, will you please resume your seat?

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Banatwalla, please resume your seat. Let the motion be moved. I will give you the floor after the motion is moved.

...*(Interruptions)*

MR. DEPUTY SPEAKER: I will hear your point of order after the motion is moved by the hon. Home Minister.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Raj Babbar, will you please allow the Home Minister to move the motion?

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Raj Babbar, please do not disturb the House.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Raj Babbar, please resume your seat.

...*(Interruptions)*

11.20 hrs.

### PREVENTION OF TERRORISM BILL

*[English]*

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): Mr. Deputy Speaker Sir, with your permission, I beg to move:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith, as passed by Lok Sabha and rejected by Rajya Sabha, be taken into consideration for the purpose of deliberating on the Bill."

...*(Interruptions)*

SHRI G.M. BANATWALLA (Ponnani): I am on a point of order.

*[Translation]*

MR. DEPUTY SPEAKER: I said that I will give you an opportunity to speak on the point of order.

*[English]*

I will hear the point of order.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Many points of order are there. After the Motion has been moved, I will hear all the points of order. I will also give my ruling.

...(Interruptions)

SHRI L.K. ADVANI: Sir, for Members of the Thirteenth Lok Sabha and for Members of the Rajya Sabha present There, this is a very special occasion. As you yourself, in your opening remarks, said, it is very rare that a joint sitting of this kind has been convened...(Interruptions)

MR. DEPUTY SPEAKER: Shri Raj Babbar, you are a senior Member.

...(Interruptions)

MR. DEPUTY SPEAKER: Kunwar Akhilesh Singh, order please.

...(Interruptions)

SHRI L.K. ADVANI: As all Members are aware, for me, it is always more convenient and comfortable than to speak in Hindi. But on this occasion, in order that I am able to address all of you directly rather than through interpretation, I resorted to English...(Interruptions)

Well, I am entitled in this House to speak either in Hindi or in English...(Interruptions)

[Translation]

If you want I can speak in both the languages, I have no problem. I can speak in Hindi also but I would request the hon'ble Members not to create obstacles as we have resolved the language problem years ago. One may speak either in Hindi or English, it should be given due regards.

...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Order, please.

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Basavara], please resume your seat.

[Translation]

SHRI L.K. ADVANI: Since I have started my speech in English, I will continue in English...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Shri Mulayam Singh, order please.

...(Interruptions)

[Translation]

SHRI MULAYAM SINGH YADAV (Sambhal): Please speak in Hindi, the Law Minister will speak in English.

SHRI L.K. ADVANI: Shri Mulayam Singh says that he has no objection if I speak in Hindi and the Law Minister spoke in English...(Interruptions)

MR. DEPUTY SPEAKER: Why are you getting up again and again. Please sit down.

...(Interruptions)

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): I will speak in Hindi, you can speak in English.

SHRI L.K. ADVANI: Shri Mulayam Singhji, it has been decided that the Law Minister will speak in Hindi and I will speak in English...(Interruptions) This is a very important discussion hence I will give reply in Hindi. However, I would request that right now I may be allowed to speak in English because I have started my speech in English.

[English]

Mr. Deputy Speaker, Sir, it is really a rare occasion. Perhaps the only Member in this House, who has participated in all these three Joint Sittings is our hon. Prime Minister, Shri Vajpayee. Like me, there may be many others who might have participated in the 1978 joint session, in which I was also there, but as I said Shri Vajpayee is unique in this House in so far as the joint sittings are concerned.

Most democracies of the world are bicameral, at least, major democracies like the UK the US, France, Canada, Germany, etc., so India also. You Constitution makers, when they framed the Constitution, they made the Indian Parliament a bicameral legislature. Having made it a bicameral legislature and having provided that a legislation that has to be passed by the Parliament has to be passed by both the Houses. They thought of this situation where the two Houses disagree, where there are differences between the two Houses, either in totality in respect of those Bills or in respect of some amendments, they made a special provision of article 108 to deal with such situation.

I may tell you that all Constitutions of the world have analogous provisions. There are practices in other countries. In fact, in the UK, for instance, there are two Houses, but in the House of Commons, directly elected and the House of Lords, if there is a difference between the two, the only thing that can happen is that the House of Lords communicates to the House of Commons that, 'we do not agree with this or we would like an amendment of this in this fashion'. Then whatever the House of Commons does that becomes law. In some other countries, as for example, in the US the Senate is more important than the House of Representatives. Maybe because Senate also is directly elected unlike the House of Lords.

Here the Constitution makers provided that if there is a difference between the two Houses, there can be a Joint Sitting. It depends on the President. The present enabling provision is article 108 where the President has been empowered to convene a Joint Sitting of this kind. It is not a joint session. The Session is continuing, that is the Budget Session, but this is a special Joint Sitting and we are certainly fortunate that we are participating in this session...*(Interruptions)*

SHRI ANIL BASU (Arambagh): Sir, they have lost the mandate of the people...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Basu, please take your seat.

SHRI L.K. ADVANI: Sir, as you recounted 1961, as you recounted 1978, it was on disagreement on some amendment to the Dowry Bill or in 1978, there was an Ordinance, which was adopted by the Lok Sabha, the Banking Service Commission Repeal Ordinance, and it was disapproved by the Rajya Sabha. Something similar has happened this time that was an Ordinance relating to the Prevention of Terrorism provision and that was passed by the Lok Sabha and it has been rejected by the Rajya Sabha.

A similar occasion has been arisen. Here, the Constitution-makers thought that a Joint Session in which naturally that directly elected House would have larger numbers and in that House and if it is decided it would be deemed as having been passed by both the Houses. These were the words that are used.

Now, let me briefly mention at this stage how this POTO has come into being. Terrorism has not come to India just now. It has been with us for quite some time. In fact, in these last few months whenever I have interacted with people from the United States, they have admitted that before the 11th of September, they were

not able to fully appreciate the kind of tribulations India has been going through for over a decade, in fact nearly two decades but after the 11th of September they could fully understand. The representatives of the U.K. mentioned to me that they too have experienced terrorism of a different kind over a period of time. The United States have experienced it only now. And they often showed greater understanding and appreciation of this problem as we are facing. They were the first to ban the terrorist organisations which have been active here. Though they have not been active in the U.K., they banned those organisations. And it is after they took the steps, the United States also thought it proper to do the same.

The Government of India has been convinced for the last four years that we have been here and I am sure even the earlier Governments held that terrorism and more particularly, State-sponsored cross border terrorism is a kind of war. It is not just a law and order problem. This is the first factor which has been responsible for Government thinking in terms of an extraordinary law like POTO.

The Constitution-makers themselves conceived that while fundamental rights are sacrosanct and if there is a violation of fundamental rights, every citizen would have the right to knock at the doors of the judiciary and seek protection of their fundamental rights. But they made provisions which provide that in a situation of war, those fundamental rights can be suspended. This only shows that the Constitution-makers were fully conscious and even while being very particular about protecting fundamental rights, they felt that in certain situations the security of the nation is a matter which should be deemed first, which should be given higher priority. So, first of all, the question that I would like to pose to all of you and which we have posed to the nation is: "Is it just in Jammu and Kashmir an aggravated law and order situation that we are facing or is it really when we say it is a proxy war, do we really believe that it is a proxy war?" If it were only terrorist organisations, perhaps, the ordinary law may be sufficient. But when you have terrorist organisations being trained, financed by a State and it becomes State-sponsored terrorism and all of them are enabled to infiltrate into our country, it becomes a challenge of qualitatively different nature.

And this is the reason why for the last four years, we have been going round the world. Our Foreign Minister, our Prime Minister and, on occasions, I have gone and tried to plead with the whole world that you must realize that now war will be waged by other means. I remember when I visited Washington lately, everyone had asked me: "Is there going to be a war between

[Shri L.K. Advani]

India and Pakistan? Your armies are deployed. Their armies are deployed and the situation seems very tenuous." My reply to their question was this. I said, "Please remember what was your reaction on the 11th of September?" On the 11th of September, four planes were hijacked. Two of them crashed into the World Trade Center. One of them crashed over the Pentagon. The fourth one was not able to reach White House. It crashed in between on the way. But that very evening, their President said that a war had been unleashed on the United States. A war has been unleashed by the terrorists on the United States. They were very serious, very grave because of this one day's incident. Five thousand or six thousand innocent persons died on that day. But that one single day made them feel that a war has been unleashed on the United States.

You just imagine. You asked me a question: "Is there going to be a war between India and Pakistan?" I would like to answer it saying that we have been facing a terrorist war for nearly two decades now. It is a 'proxy war'. We call it so. Some people say it is a low intensity war. That fact is that we have not lost so many security men and so many innocent citizens in the four wars that preceded as we have lost in this proxy war. I do not want to give you all the statistics but broadly speaking, even in those wars the number of persons who died was about 3000 or 4000. In this proxy war, we have lost 61,000 people. Most of them are innocent citizens, men, women and children who have nothing to do with any politics of any kind and yet they have been killed. Therefore I said: "We are already facing a war."

On the 13th December when this war came to India's Parliament House, our Prime Minister said that let this be a challenge in which we take up the challenge and prove that this is going to be a decisive chapter in our war against terrorism.

Sir, I hold that when the Government, in spite of the fact that the Rajya Sabha did not agree with us, felt that it is necessary that a Joint Session be called for this, it is because we feel that we cannot score a decisive victory against the terrorism unless special laws of this kind are enacted. It is, therefore, that I have come to the House.

I feel satisfied also that while we have been mobilizing world opinion, our Foreign Minister has tabled a draft of Comprehensive Convention on Terrorism in the United Nations. But immediately after the 11th September incident, suddenly a sea change came about in the thinking of the whole world, including America about this particular matter. And on the 28th of September, that very month, the Security Council passed Resolution

N. 1373, which is a Resolution binding on all Members of the Security Council, in which the Security Council told all its Members of the Security Council, in which the Security Council told all its Members recognizing the need for States to complement international co-operation by taking additional measures to prevent and suppress in their territories through all lawful means the financing and preparation of any act of terrorism. The United Nations Security Council decides also that all States shall deny safe haven to those who finance, plan, support or commit terrorist act or provide safe haven.

This is a matter, which we are pursuing with our neighbour on whom we have served a notice that there are 20 terrorists who have committed acts of terrorism in our country and to whom they have given safe haven. They have provided extra facilities of all kinds. These days, they have been saying that - they have not said to us but I have heard it from various quarters - if they were to hand over these 20 terrorists to India, it would be a security risk for them, meaning thereby that they would be able to share with us matters that would reveal to us how this proxy war has been going on for the past two decades.

This Security Council Resolution also says:

"That all states shall ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice..."

I emphasise, 'brought to justice'.

I will deal with how POTO is different from TADA. In the case of TADA, as everyone knows, the conviction rate was so abysmally low that they felt that there was an extraordinary law that has been brought and yet people were not punished because of that. So, they have to be brought to justice.

The Resolution further says:

"...and ensure that in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts."

I am not reading the whole Resolution. I have read certain important parts, which have prompted us that a law like POTO was imperative. It is our duty to the international community where we have been canvassing that laws should be framed. They would be right in telling us: "You have been telling us to do all this. We have

done it but what has happened to you?" Therefore, it is that it becomes our duty to pass the Prevention of Terrorism Act.

I would like to add that this law has not been brought in a hurry. Our thinking about it started immediately after we came to power. In every meeting that we held with States and with security men, they would tell us that in 1985 the TADA was enacted, the TADA was an extraordinary law, it was extended from time to time and in 1995 it was allowed to lapse. They would tell us that the decision to allow it to lapse was principally because of the complaint that the TADA had been misused.

In the meanwhile, some private individuals and some organisations questioned the constitutional validity of TADA and the matter went to court. I would like to say that there were three principal objections against TADA – first, that it was unconstitutional; secondly that it was abused; and thirdly that there were no convictions under TADA. POTO deals with all these issues.

The court itself settled the first issues when it said that TADA was not unconstitutional. In *Kartar Singh vs. the Government of Punjab*, the court went into it elaborately because the complaint was that it was being abused. The court laid down six safeguards and said that if those safeguards were there, there would be a minimum possibility of an act like TADA being abused.

I feel happy that after the Law Commission first suggested a draft Bill in its 173rd Report - this was in the year 2,000—numerous discussions have gone on in various fora. If I were to read out the various forums at which POTO was discussed, there are so many. I remember, in 2000 itself, when the Draft Bill from Law Commission had just come, our Home Ministry's Consultative Committee discussed it. It discussed it twice later also. We sent the draft to various States and the State Governments gave their opinion. A Chief Ministers' Conference was held where this was also discussed. The Prime Minister convened a special meeting of the party leaders where again this was discussed. Apart from that, for a period of nearly two years from 2,000 till 2001, these discussions went on. The result of these discussions was that we were able to profit from the experience of the use of TADA. We were able to remove all the shortcomings in TADA. When we sent this proposal to the States, there were States like Maharashtra which told us that they have been able to secure a high rate of conviction ever since they have adopted the Maharashtra Control of Organised Crime Act (MACOCA), which is a law against organised crime. While earlier in TADA the percentage of conviction used to be very very low, in the case of MACOCA, after this law had been enacted, the

percentage has been over 76. Shri Shivraj Patil said the other day very rightly that this 76 per cent may be a high percentage because the number of cases till now have been low. But it is also true that one single provision which has been incorporated in MACOCA that intercepts or intercepted communication would be deemed admissible evidence, has changed the whole perspective. After all, when someone in Dubai or when someone in Islamabad phones someone here and asks him to bump off so and so, that this particular leader should be bumped off, you are not going to have witnesses who are going to come forth to give evidence for that. It is the intercept which is going to be crucial and vital in booking that particular person. Attack on Parliament took place. How were we able to trace their collaborators here in Delhi or in Kashmir? It was through these intercepts. Let us not forget that terrorists act in a manner as to terrorise even potential witnesses. I was told that in the case of General Vaidya who was killed by terrorists, even close relations and family members were reluctant to come and give evidence that they saw so and so killing him. Now, in this situation, if a provision like intercepted communications being admissible evidence is incorporated, is it not something necessary? It is necessary and, therefore, it has been incorporated. I am told that before bringing this Ordinance, we first compared it and its provisions with all the similar laws enacted in various democracies like the United States, like the United Kingdom, like France, like Germany, and we found that we have provided greater safeguards for the citizens than they have.

Let us not forget the Supreme Court has said in its judgement in the *Kartar Singh* case. It made a very pertinent observation. The Court observed:

"While the liberty of a citizen must be zealously safeguarded by the court, nonetheless the court, while dispensing justice in cases like the ones under the TADA Act should keep in mind not only the liberty of the accused but also the interest of the victims and their near and dear ones and above all the collective interest of the community and the safety of the nation so that the public may not lose faith in the system of judicial administration and indulge in private retribution."

These are very pertinent observations made by the Supreme Court, and the discussion that went on in various fora, that has made us think in terms of having this law passed if necessary even in a Joint Sitting. I would be very happy if the political parties, all of them, thought about this objectively. It is the message that we would be giving to the whole world as to how on this particular issue the country is united. Otherwise it has to be by a majority vote as provided in the Constitution.

[Shri L.K. Advani]

All that I can say is that when we invited the Chief Ministers here to discuss the POTO, there were Chief Ministers belonging to various Parties who told us, told me that: "We are in favour; but my Party has decided differently."...*(Interruptions)*

I know that. Without mentioning names...*(Interruptions)*

MR. DEPUTY SPEAKER: Order please.

SHRI PRIYA RANJAN DASMUNSI (Raiganj): Sir, how can he say it here? Who are the Chief Ministers?...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Dasmunsi, when you get the opportunity you can say it.

...*(Interruptions)*

MR. DEPUTY SPEAKER: When you participate, you can refute it if you want. But it is not like this. Please do not disturb the hon. Minister.

SHRI PRIYA RANJAN DASMUNSI: Sir, how can he say what was discussed there?...*(Interruptions)*

SHRI E. AHAMED (Manjeri): Sir, what is it? How can he say what happened in that meeting?...*(Interruptions)*

SHRI L.K. ADVANI: I can understand your reaction...*(Interruptions)* Sir, I can understand their anger. But all that I can say is that without revealing names, I can swear that what I say is the truth...*(Interruptions)* I can swear that what I have said is the truth. I do not want to reveal the names. You know it all. Everyone knows it...*(Interruptions)*

[Translation]

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Mr. Deputy Speaker, Sir, this is totally wrong...*(Interruptions)* Nobody can mislead the House...*(Interruptions)* He is giving wrong reference...*(Interruptions)*

MR. DEPUTY SPEAKER: Mr. Raghuvansh, you give reply when you are participating in the discussion. Please don't speak while he is delivering his speech....*(Interruptions)*

[English]

MR. DEPUTY SPEAKER: Shri Ramdas Athawale, please hear the hon. Minister. If there is anything

objectionable, I am here to look into it. Why are you worried?

...*(Interruptions)*

SHRI L.K. ADVANI: Sir, they may be surprised to know that if there is one person...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Suresh, please do not disturb.

...*(Interruptions)*

MR. DEPUTY SPEAKER: You cannot interrupt the House like this.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Do not interrupt him.

...*(Interruptions)*

[Translation]

DR. RAGHUVANSH PRASAD SINGH: He is misleading the House...*(Interruptions)*

[English]

MR. DEPUTY SPEAKER: When you get the floor, you can speak. You cannot speak like this.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Dasmunsi, please tell your Members that when they get the floor, they can refuse it, if they want, but they should not do like this.

...*(Interruptions)*

SHRI PRANAB MUKHERJEE (West Bengal): The hon. Minister has said that a few of the Chief Ministers are in favour of it, but their parties do not favour it...*(Interruptions)* He is giving an impression that some of the Chief Ministers are convinced that there is a need of POTO but their parties are not for it...*(Interruptions)* It is unfair...*(Interruptions)* He should either reveal the names or...*(Interruptions)*

MR. DEPUTY SPEAKER: I am on my legs.

...*(Interruptions)*

MR. DEPUTY SPEAKER: If you are raising a point of order, the Minister has to yield.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: Sir, no Chief Minister is here...(Interruptions) They are not here to contradict...(Interruptions)

SHRI L.K. ADVANI: Sir, I have already said that I am willing to swear on oath that what I have said is correct...(Interruptions)

SHRI S. JAIPAL REDDY (*Miryalguda*): Sir, I am on a point of order.

MR. DEPUTY SPEAKER: You are on a point of order.

SHRI L.K. ADVANI: I may add one more thing to your disillusionment. After all, you may have all heard of the case of Mohammed Afroz in Mumbai, a person who claimed or who in the course of his confession...(Interruptions)

[Translation]

SHRI MOHAN RAWALE (*Mumbai South Central*): In Maharashtra the Congress Party is in power and they have implemented POTO there. They have no right to oppose here...(Interruptions)

[English]

SHRI S. JAIPAL REDDY: Sir, I am on a point of order...(Interruptions)

SHRI L.K. ADVANI: Sir, you have to decide...(Interruptions)

MR. DEPUTY SPEAKER: Yes, under what provision are you raising your point of order?

...(Interruptions)

[Translation]

DR. RAGHUVANSH PRASAD SINGH: First the Minister of Home Affairs should be asked to resume his seat and then the point of order of Shri Jaipal Reddy should be heard...(Interruptions)

[English]

MR. DEPUTY SPEAKER: What is your point of order?

SHRI S. JAIPAL REDDY: Sir, I am grateful to you and the Minister for permitting me to raise my point of order. My point of order is this. No private conversation can be quoted even if it is true, even if the conversation relates to Members in the House...(Interruptions)

12.00 hrs.

SHRI L.K. ADVANI: I at least know that a few of the State Governments, when they were asked for their opinion, they themselves expressed in favour of it. There were very few who opposed POTO. Most of them either favoured it or wanted certain improvements. Therefore, by and large, I hold that there has been a consensus in the country on the issue of POTO...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: Mr. Deputy Speaker, Sir, this is again another statement which is not true. There is no consensus on POTO...(Interruptions)

SHRI L.K. ADVANI: You are free to say what you want, but this is my opinion.

MR. DEPUTY SPEAKER: When you participate in the debate, you can refute what the hon. Minister has said.

...(Interruptions)

[Translation]

SHRI SURESH PACHOURI (*Madhya Pradesh*): It has been proved in Rajya Sabha that there is no consensus over this issue...(Interruptions)

SHRI CHANDRA SHEKHAR (*Ballia, U.P.*): Mr. Deputy Speaker, Sir, through you, I would like to make a request to the hon'ble Home Minister not to go into technicalities but it is a well accepted convention that if any Chief Minister holds a discussion with the Prime Minister or the Home Minister then the subject matter of that discussion should not be made public and that too inside the Parliament. You have done a wrong thing. You should withdraw these words...(Interruptions)

[English]

SHRI SANTOSH BAGRODIA (*Rajasthan*): Sir, it should not go on record...(Interruptions)

THE MINISTER OF RURAL DEVELOPMENT (SHRI M. VENKAIAH NAIDU): Sir, he has not taken any names, and this is not objectionable. The Law never said that...(Interruptions)



[Translation]

DR. RAGHUVANSH PRASAD SINGH: The hon'ble Home Minister should beg apology from the House...(Interruptions)

SHRI L.K. ADVANI: Mr. Deputy Speaker, Sir, Chandra Shekharji is respectable for me. I hold him in high esteem and if I had said something private referring the name of any Chief Minister then I would have certainly withdrawn my words.

...(Interruptions)

[Translation]

But people from that side were demanding that I should disclose the names of those who had told me. I will not disclose their names. The reason being that it is my responsibility not to disclose the contents about personal conversation in the House...(Interruptions) However, I have said and I would like to mention here that when the consent for prevention of Terrorism Bill was sought from the States, Andhra Pradesh, Arunachal Pradesh, Dadar Nagar Haveli, Daman and Diu, Delhi, Haryana, Himachal Pradesh, Karnataka Lakshadweep, Nagaland and Sikkim have fully supported the Bill while though Goa, Rajasthan, Assam, Mizoram, Chandigarh, Madhya Pradesh, Uttar Pradesh, Maharashtra, Orissa and Punjab have supported the Bill, but they have suggested some amendments. The States which opposed the Bill were West Bengal, Jammu & Kashmir, Kerala, Meghalaya and Tamil Nadu. They opposed this Bill. However from all this, I draw the conclusion that most of the State Governments were in support of the Bill though they sought some amendments. I have submitted on the basis of that. But there was no consensus among political parties in this regard. I am mentioning all this for the reason that if there had been consensus on this issue, the Bill would have been passed by the Rajya Sabha and the joint sitting (Session) of Parliament would have not been required. I admit that there is no consensus among political parties...(Interruptions)

[English]

SHRI DIPANKAR MUKHERJEE (West Bengal): Sir, he is misleading the House...(Interruptions)

SHRI L.K. ADVANI: I am not yielding now...(Interruptions)

SHRI DIPANKAR MUKHERJEE: Sir, he is misleading the House...(Interruptions)

[Translation]

SHRI L.K. ADVANI: Mr. Deputy Speaker, Sir, POTO does not have those lacunae that existed in TADA. So it will not be misused...(Interruptions)

[English]

Mr. Deputy Speaker, Sir, I strongly commend POTO to this House for enactment and I would be very grateful if political parties which have been opposed to it till now have a second view of their approach and decide to support it.

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith, as passed by Lok Sabha and rejected by Rajya Sabha, be taken into consideration for the purpose of deliberating on the Bill."

Shri Paranjpe, what is going on there?

...(Interruptions)

SHRI G.M. BANATWALLA (Ponnani): Mr. Deputy Speaker, Sir, I rise on a point of order under Rule 376, read with article 108, clause (1) of the Constitution.

The mechanism of a Joint Sitting is a very serious mechanism because it can result in bulldozing the view and the decision of one House or the other, particularly the Rajya Sabha, which is against the spirit of bicameral legislature the system that we have in India. Under the system of bicameral legislature, the views of both the Houses have to be seriously considered and not to be bulldozed...(Interruptions)

MR. DEPUTY SPEAKER: Shri Kirit Somaiya, I have given him the floor to raise a point of order.

SHRI G.M. BANATWALLA: Mr. Deputy Speaker, Sir, in the system of bicameral legislature we have to be very careful that the view of any one House is not bulldozed. One has, therefore, to be extremely careful in accordance with the spirit of the bicameral legislature.

Mr. Deputy Speaker, I am to draw your attention to article 108, clause (1) of the Constitution. Specially, the first point that comes up is the threat that has been given to the Parliament by no less a person than the Chief Minister of a State who says: "If the Parliament continues, the riots in Gujarat will continue." Sir, he wants to infer that when the Parliament is adjourned, at the same time the riots will be controlled over there...(Interruptions)

MR. DEPUTY SPEAKER: Shri Venkaiah Naidu, I will look into it and give my ruling. Do not put any stress

now, please. Whatever may be the point of order, I will have to give me ruling.

SHRI G.M. BANATWALLA: Mr. Deputy Speaker, under article 108, clause (1) the occasion for a Joint Sitting...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Kirti Azad, what is it you are mentioning! You have to behave yourself in this House.

SHRI G.M. BANATWALLA: Sir, the occasion for a Joint Sitting arises under three circumstances mentioned at clauses (a), (b) and (c) in that particular article. Those three occasions are (1) When the Bill is rejected by one of the Houses; (2) when the House have finally disagreed on the amendment; and (3) when more than six months have elapsed from the date of the reception of the Bill by the other House without the Bill being passed by the other House.

Now, let us see what happened in Rajya Sabha. When the Bill was presented in the Rajya Sabha, the Rajya Sabha did not take the Bill into consideration, did not wait for the Minister to move that the Bill be passed. Such a Motion they did not wait for. Had the Rajya Sabha waited for the Motion that the Bill be passed, and had the Rajya Sabha defeated that Motion, then clause (a) would have been attracted under article 108.

MR. DEPUTY SPEAKER: Formulate your point of order, Shri Banatwalla.

SHRI G.M. BANATWALLA: I am formulating it, Sir. On the passage of the Bill there was no Motion. Rajya Sabha did not wait till the third reading. There was no Motion that the Bill be passed. There was no such Motion that was defeated. Under clause (a) of article 108, the Joint Sitting can take up only such a Bill which is rejected by the House.

The Rajya Sabha did not reject the Bill. What did the Rajya Sabha do? The Rajya Sabha, at the very outset, defeated the Motion for the Bill to be taken into consideration. In other words, the Rajya Sabha refused to take the Bill into consideration.

Therefore, it is clause (c) that has been attracted. Since there is no clear rejection of the Bill by the Rajya Sabha, you have to wait for six months. This is clause (c). It is only after six months.

MR. DEPUTY SPEAKER: Shri G.M. Banatwalla, I have understood your point.

...*(Interruptions)*

SHRI G.M. BANATWALLA: It is only after six months cooling off period...*(Interruptions)* When the Government does not stand on its prestige and when the wisdom dawns upon it, only after six months this Joint Sitting can be called.

MR. DEPUTY SPEAKER: Shri G.M. Banatwalla, I have heard you. I will give my ruling now.

SHRI G.M. BANATWALLA: Thank you, Sir.

*[Translation]*

SHRI MULAYAM SINGH YADAV: Mr. Deputy Speaker, Sir, please let me finish my speech on the point of order...*(Interruptions)*

MR. DEPUTY SPEAKER: I will call you for the speech.

...*(Interruptions)*

*[English]*

MR. DEPUTY SPEAKER: I heard you, Shri Banatwalla.

As the House is aware, the Bill was passed by the Lok Sabha on 18th March, 2002 and transmitted to Rajya Sabha for considering and passing. After the Motion for consideration of the Bill was negated in the Rajya Sabha, the Rajya Sabha transmitted this message: "This Bill was not agreed to by the Rajya Sabha."

It is true that the message does not specifically use the phraseology used in sub-clause (a) of clause 1 of the article 108, the negation of the Motion for consideration of a Bill by the Rajya Sabha implies that the Rajya Sabha has rejected the policy contained in the Bill. This has been made amply clear in rule 134 of the Rules of Procedure of the Council which provides *inter alia* that if a Motion for consideration of a Bill originating in the House and transmitted to the Council is negated, it shall be deemed to have been rejected by the Council.

Therefore, the effect of the message is same as to convey that the Bill in question has been rejected by the Rajya Sabha. I am also add that the message received from the Rajya Sabha in respect of the Banking Service Commission Repeal Bill, 1977 was worded similarly. The Bill was passed at the Joint Sitting of the two Houses on 16th May, 1978.

So, there is no point of order now.

Now, Shrimati Sonia Gandhi.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Maheshwar, please. If you start like this, then there would not be any debate. Please cooperate with the Chair.

...(Interruptions)

SHRIMATI SONIA GANDHI (Amethi): Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to speak on a subject of vial national importance.

This is a historic occasion. It is only the third time in more than half a century of parliamentary life that both Houses have been convened together in this manner. Yet I fear that the very dignity that should be associated with such an event is being damaged by the insidious purpose behind our sitting today.

We are not here to celebrate a consensus on a measure of national importance. We are here today because this Government wishes to exploit a sparing Constitutional provision to achieve its narrow and controversial end. This Government is choosing to do so at a time when our polity is divided right down the middle.

This Government has chosen to ignore the pleadings and warnings of vast Members of the elected representatives. It has turned a deaf ear to large sections of the people.

It has shown contempt for the opinion of the Media and of our intellectuals. It has overlooked the view of an eminent Statutory Authority like the Human Rights Commission to push its agenda through this Joint Session. This Government has revealed its true intentions by using every device to arm itself with the menacing powers of POTO.

Mr. Deputy Speaker, Sir, manipulating the processes of Parliament for promoting a divisive ideological agenda is to subvert the very spirit of the Constitution. The threat of a Joint Session was being held out openly even before the Lok Sabha and the Rajya Sabha had been given a chance to debate the Bill. It was, I saw and we all saw, an attempt to intimidate the Houses with arithmetic superiority and to reduce them both to rubber stamps.

A Joint Session is an extra-ordinary provision to be considered in all solemnity and seriousness when disagreements are not resolved. Even then, it should be resorted to after sufficient time has been permitted to elapse, to make allowance for introspection and possible emergence of consensus. In any case, for an issue such as POTO, a Joint Session can never be - I repeat, can never be - a satisfactory solution. It is, even more unacceptable when it is used to pass a draconian law in

the backdrop of communal tension, of murder and looting in Gujarat, a divisive Ayodhya campaign and an outrageous physical attack on the Orissa Assembly. We made every effort to make this Government see reason and find a way out. We suggested a Joint Select Committee so that harsh provisions of this Bill could be discussed amicably and settled rationally. We asked the Government to institute consultations with the Opposition parties. Our proposals, I am afraid, were treated in a cursory fashion.

Given the record of the Government's obstinacy, the appeal made by the hon. Prime Minister, as late as yesterday, for cooperation on this issue rings hollow and has been apparently designed as a debating point. My own request to him, through you, Mr. Deputy Speaker, Sir, is that his Government steer clear of politically motivated approaches in matters that cleave the polity.

My colleagues have already quoted from the speeches of senior members of this Union Cabinet who had stood to oppose just such a law in the past, namely, TADA. Those who vehemently assailed TADA at the time of its extension include Shri Yashwant Sinha, the Finance Minister, Shri Jaswant Singh the External Affairs Minister, Shri George Fernandes, the Defence Minister by the grace of the Prime Minister, Shri Ram Naik, the Minister of Petroleum and Natural Gas, Shri Ram Vilas Paswan, the Minister of Coal and Mines. All these hon. gentlemen referred to TADA at the time as a blot on democracy, as a legislation worse than the Rowlatt Act, a legislation used not to abolish terrorism but to give a blow to democracy. Now, we all wonder why this 180-degree turn by these hon. gentlemen. What of the noble concern for civil liberties and human rights they had so strongly expressed?

Mr. Deputy Speaker, Sir, although the Congress Party took the initiative, TADA was enacted in 1985 without dissent from the Opposition. TADA became a law in a climate of consensus and not, not in a climate of confrontation. During the 10 years of its existence, out of 76,000 detenués, only about a thousand could be convicted. In the State worst affected by terrorism, Jammu and Kashmir, TADA was totally, but totally ineffective. In view of this record, the Congress was ready to admit that TADA had failed to serve its purpose. We had the self-confidence, not only the self-confidence but we had the open mindedness to learn from the past. We urged this Government to learn from our collective experience. This Government, Mr. Deputy-Speaker, Sir, refused to listen. Why? Why did it refuse to listen? Because, it was bringing this law to project the issue of national security as a tool, as a partisan tool of propaganda. Let me be very clear what the Congress Party is opposing. The

proposed legislation is unacceptable because it violates the basic human rights of individuals.

Before we deal with the *bona fides* of the Government we should examine whether POTO has been effective in serving its stated purpose. I would like to ask, Sir, in the last five months to what extent have the activities of foreign terrorists abated? To what extent has cross-border terrorism been reduced? To what extent has militancy been reduced and to what extent has militancy in the North-East in particular been brought under control? POTO is supposed to have a preventive aspect. To what extent, Mr. Deputy-Speaker, Sir, did it succeed in preventing the attack on December 13 on our Parliament? We have, however, seen how POTO has been selectively used and misused in the last few months.

To begin with, POTO was used to ban organisations in a partisan manner. Among the first victims was a family in Jammu and Kashmir which had nothing, nothing whatsoever, to do with terrorism. The Government had then to beat a hasty retreat on its very first step, in the wake of public outcry. The Gujarat Chief Minister used it in an astonishingly sectarian manner, namely, against only those perpetrators of the killings at Godhra. He did so on the basis of a contrived distinction that one set of victims were the victims of terrorism and the other set of victims were actually the victims of rioting. Once again, intense public pressure compelled him to eventually give up this falsehood. Yet, those who desecrated the sanctity of the Orissa Assembly did not attract the provisions of POTO. The divisive activities of the Vishwa Hindu Parishad and Bajrang Dal that threaten to tear apart the social fabric of our nation, also do not attract the provisions of POTO. The definition of "terrorist act" has been so cleverly, so very cleverly, created that the advancement of a political, religious or ideological agenda through murderous violence and destruction does not come within the purview of this law!

With each passing day, it is becoming clear, it is becoming more and more clear, what and for whom POTO is intended.

Mr. Deputy Speaker, Sir, we have enough special laws in the country. We have the National Security Act, 1980. We have the Arms Act. We have the Explosive Substances Act, and many other Acts. Any or all of these can be further strengthened and amended. More courts, for instance, could be set up; more judges could be appointed. Prosecutors and investigating agencies can be better trained and can be made more efficient, more effective. The legal processes can be speeded up through judicial reforms. If, extraordinary threats prevail in some parts of the country, individual States are competent to consider their own suitable legislation.

I will not go into the technical lacunae in the law which have adequately been mentioned and highlighted by my colleagues both in the Lok Sabha and the Rajya Sabha. But I would like to just briefly refer to some critical shortcomings: a Review Committee, in which a majority of members are Government appointees; a presumption under which a person is virtually deemed to be guilty until he proves himself to be innocent; the defective definition of terrorism in the law; admissibility of confessions to the police which could be extracted through mental and physical torture; and the provision for not disclosing the names of witnesses to the accused under certain circumstances.

Mr. Deputy Speaker, Sir, it should be obvious even to the Home Minister that all these shortcomings make the law more dangerous and more amenable to misuse. The law itself is threatening but it becomes even more so in the hands of this Government. The merits and effects of the law depend not only on its legal provisions but on the manner and fairness with which it is implemented. There is, I am afraid, neither moral integrity nor sincerity of purpose among those who are trying to force this law on the nation today.

As late as the 24th of March, none other than the distinguished Chairperson of the National Human Rights Commission stated after visiting Gujarat that "all that happened could have been averted" and he added "that the people are still insecure in Gujarat." Yet, the Chief Minister of Gujarat had the temerity to blame the discussions in Parliament for the continuing communal tension. Sir, in view of such shining credentials of a BJP Chief Minister, POTO, I suspect, will become an instrument in the hands of this Government to suppress political opponents, religious minorities, ethnic groups, weaker sections of our society, and the trade unions. I am afraid, Mr. Deputy Speaker, Sir, the POTO poses a larger threat to the freedom of ordinary people than to terrorists. The devious intent of the Government was betrayed by the manner in which the Ordinance was rushed through just a few days before Parliament was due to meet. The promulgation of POTO was accompanied by a public comment by a very important person in the Government that it would lead to a "win-win" situation, implying that the ruling establishment would gain politically whether POTO was passed or not.

Does this not demonstrate that the real intent was never to sincerely fight terrorism, but to gain political mileage? I am afraid, it does so. Was this not why POTO was projected as the principal plank during the recent Assembly elections? Yet the BJP lost in Punjab, the BJP lost in Uttaranchal, the BJP lost in Manipur, the BJP not only lost, but suffered heavily in Uttar Pradesh. Now I

[Shrimati Sonia Gandhi]

would like to know does the Union Government, led by the same BJP, still not see the light?

The system of jurisprudence propounded by the fathers of the Constitution and nurtured over decades provides basic safeguards to protect the liberties of the citizens. POTO, I am afraid, will create a parallel system. It will create a separate system of legal procedures, of evidence and of courts. It will bypass the normal criminal justice system. In other words, it will not be a system of justice, it will be a system of injustice and such a system is repugnant to the fundamentals of democracy.

Sir, history is witness to the fact that draconian laws have rarely been successful in combating terrorism. This evil is best combated by strengthening social cohesiveness, by promoting communal harmony, by accelerating economic growth and above all by ensuring distributive equity in the country. At any rate, the purpose of fighting terrorism cannot be achieved by sacrificing individual freedom or by weakening democratic institutions.

Astoundingly, it has been suggested that opposing POTO is tantamount supporting terrorism. We have been accused of being soft on terrorism. The Congress Party, of all Parties, has a proud and consistent record of fighting terrorism. The Congress Party lost two of its tallest leaders in the fight against terrorism. The Congress Party does not need lessons in patriotism, least of all and certainly not from the proponents of the "politics of hate" for which some Members present here today are so well known. This simplistic and subversive propaganda is nothing but a well-known technique that the Ruling Party has long since begun to adopt in the country.

Mr. Deputy Speaker Sir, the Government is serious about combating cross-border terrorism, we have always been ready, we will always be ready and we are ready to extend our unstinted support. The Prime Minister, as the head of this Government, has to decide whether his primary duty is to protect the welfare of the people of India or to succumb to the internal pressure of his Party and its sister organisations.

Will he be submissive and weak in his leadership or will he uphold the prestige of the high office he holds? His moment of reckoning has come. My Party and I oppose this legislation for its anti-democratic features.

Mr. Deputy Speaker, Sir, the Congress Party stands firmly against POTO. ...*(Interruptions)*

[*Translation*]

SHRI MOHAN RAWALE: There is Congress led Government in Maharashtra, why was POTO like law

implemented there?...*(Interruptions)* Are not people belonging to minority community living there?

[*English*]

MR. DEPUTY SPEAKER: As agreed to in the Leaders' meeting held today, there shall be no lunch break and voting shall be held at around 5 p.m.

Shri Manohar Joshi.

THE MINISTER OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES (SHRI MANOHAR JOSHI): Mr. Deputy Speaker Sir, I am thankful to you for giving me this opportunity to address this very important Joint Session.

Sir, I am speaking on behalf of Shiv Sena, my Party. As everybody is aware, my Party is fully supporting POTO. We believe sovereignty of our country. We are against all sorts of terrorism and are supporting the Bill because we are a true, trustworthy and reliable friend of the BJP. It is said that a friend in need is a friend indeed. Therefore, Sir, we are supporting the Bill. It is also because we thought that it is absolutely necessary in the interest of the country. This is what the Government can do minimum in the interest of the law-abiding citizens of our country. I have no hesitation in saying so. We want India, the people of India to live without fear and with dignity. We have always fought against terrorism and, therefore, our support to this Bill is from the bottom of our hearts.

I have been a witness to the havoc that was created by the bomb blasts in Mumbai. Friends, those who have seen the bomb blasts, I am sure, will understand the activities of the terrorists and will never be in a position to oppose POTO...*(Interruptions)*

Mr. Deputy Speaker Sir, as the former Chief Minister of Maharashtra, I have experienced what it takes to root out terrorism. The much talked about Maharashtra Control of Organised Crime Act (MACOCA) was also conceptualised during my time.

Sir, since 1988, we have suffered about 50,000 incidents and have lost more than 12,000 lives of civilians and 4000 lives of security personnel in the country.

See the recovery of the explosive material and imagine the kind of destruction that this could have caused! More than 40,000 hand-grenades have been recovered since 1990; 47,000 detonators 5,100 anti-personnel mines; more than 4,000 anti-tank mines; and 5,000 kgs. of RDX have been recovered. You will be surprised to know that the materials recovered so far from the terrorists would have been sufficient to perhaps blow up the entire country. Therefore, it is necessary to understand the seriousness of terrorism in our country.

The terrorists are armed with AK-47 weapons. This is what terrorism means today in the country. Therefore, Shiv Sena, no doubt, not only supports the POTO Bill which has been introduced today in the Joint Session of Parliament, but also expects that the provisions of the Bill should have been made stricter than what they are today. Stricter provisions are necessary because we are not fighting ordinary criminals. We are fighting those who have all kinds of weapons and equipment with them. Therefore, it is necessary that terrorism will have to be fought with all unanimity and without any exception.

Sir, this Bill became necessary only because of the situation that is prevailing in our neighbouring country. The greatest threat in the world today is from the Islamic fundamentalist groups based in Pakistan. How are we going to fight these fundamentalists, is the basic question that is before us. These groups receive all kinds of support from the Government of Pakistan. Islamic fundamentalism is also raising its ugly head in Bangladesh. We all are aware that in Bangladesh also, in some parts Hindus have been attacked. Nepal has also been witnessing the Maoist insurgency. More than 1,500 people have been killed. Looking at all these aspects, do you not think it necessary that a strict law is passed in the country as early as possible? We all were aghast when the Pakistani President, General Musharraf termed the cross-border terrorism in Jammu and Kashmir, a freedom movement, when it is crystal clear that it is the ISI which is sponsoring, controlling and cultivating terrorism in Jammu and Kashmir. Look at what is being taught in more than 50,000 *Madarsas* of Pakistan. Count the number of training camps for terrorists, sponsored and being run by the Government of Pakistan. If this is happening in our neighbouring country, should we not arrest the problem, before it gets out of our hands?

We are faced with extremist movement in Andhra Pradesh, Bihar, Jharkhand, Maharashtra, Chhattisgarh and Madhya Pradesh. We have the menace of private armies in Bihar; in Assam there is a problem of ULFA; People's Liberation Army is Manipur, Socialist Council of Nagaland in Nagaland; and All Tripura Tiger Force in Tripura.

From across the Indian border, there has been a large-scale induction of lethal and sophisticated weapons, narcotics, fake currency etc., and support is being provided for all these activities. So, far the Government did try for peaceful measures.

You are all aware that a unilateral cease-fire was also announced by the Government of India and it was extended thrice. But I do not think that the terrorists will be able to understand the peaceful measures which have been adopted so far. And, what is worse is that during

the visit of Gen. Musharraf also, the terrorists did continue with their activity. I remember that the diary of the *Lashkar-e-Toiba* Commander, Rahman, who was responsible for the brutal and mindless killings, contained this and he had recorded this:

"The warriors of *Lashkar-e-Toiba* have killed 19 unbelievers of Islam. This is our challenge to the Indian Government."

Sir, it is a clear that the terrorist activities in the country are being done with a definite design and with an intention to see that the total idea of the country like India is eliminated. Therefore the Government thought of taking steps and the first step was to go in for POTO. It is known to everybody that they have been in favour of *Jehadis*. They have been saying that Kashmir is only a gateway to establish the rule of Allah throughout the world. For them, Kashmir is not the end but only a means. The ultimate aim of these *Jehadi* groups is to revive the tradition of *Jehad* among the Muslims all over the world in order to win back the lost glory of the Muslim world. Therefore, we shall not allow any of the *Jehadi* groups to succeed in its evil intentions. If the Opposition wants to help these groups, we will not allow them to do that. We will resist and use all the might to protect the country from this type of an activity.

The ordinary laws would never be sufficient to protect our country because the terrorists have been brain-washed. Their idea is of *Jehad* all over the world. They have enough resources, and, therefore, it becomes more difficult. They have access to technology. We have seen what they could do as in the case of the World Trade Centre Towers and the crash of a plane on Pentagon. I am really surprised that how the people's representatives can take a stand against the interest of the people. The *Jehadis* want to create an atmosphere which is more dangerous to the country. It is seen that for fighting these people, the present law would never be sufficient.

Their intention is to wipe out the country. Are we going to permit this? Are we going to support this? I pose a question. Can we secure the lives of Indians and are we ourselves secured?

Can I ask the Opposition? Are you not signing the death warrants for the whole country by not assenting to this Bill? Are you going to risk the security of this country for achieving some minor political gains or for some small number of minority votes? Let me tell you that in any case, these votes are not in the hands of anybody. For whom these people will vote is unfortunately being decided by criminals sitting beyond the borders. This is the politics that is coming in the way. So, those who are eyeing

[Shri Manohar Joshi]

these votes will not gain much. For the sake of votes, if the Opposition wants to oppose POTO, I think, it is not in the interests of the country.

The Opposition has been saying that the provisions of the Bill are too stringent. A number of times they said that the provisions are draconian. They are criticising the Bill saying that it violates the human rights. Let us see as to whether the Opposition is saying this out of conviction. Or are they opposing it for the sake of opposition? My party feels that the Opposition is opposing POTO, only because they want to oppose it for the sake of opposition. Beyond that, they have nothing to do with POTO.

Sir, I must say that the very Government, the very people who are opposing POTO have been implemented POTO in the States like Maharashtra. I am saying this with all responsibility. The Congress leader here just now opposed POTO. When Shri Advani was speaking, he did mention that privately people are saying something different. I must mention that the POTO as it stands today is not applied in many States. The POTO is applied for a person like Afroz, in the State of Maharashtra, where the Congress Party is leading.

May I ask the opposition leaders this? Does it not prove the point made by the hon. Home Minister that they may be opposing publicly but when it comes to the execution, apart from the other States, the Maharashtra Government was also one of the first States which applied POTO? The Government in Maharashtra is led by the Congress Party today. The position of Maharashtra is quite clear. The Congress Party is ruling Maharashtra in coalition with the NCP, another Congress party. Shri Ramdas Athawale knows about it. The NCP has supported POTO, whereas the Congress Party has opposed POTO. They have no unanimity on the issue. POTO is applied already. The MACOCA has been applied. Therefore I personally feel that the provisions of POTO are not more stringent than the law like MACOCA.

The question I therefore, pose now is this. Which of these laws is more stringent? Obviously, POTO is not. Now, let us see as to how MACOCA proposes to be achieved and as to what is proposed to be tackled by POTO? MACOCA is for combating organised crime and POTO is for combating terrorism. I personally feel that any Act against organised crime may not be as important as the crime against terrorists. Why is it that the Congress Party, which has chosen to take recourse to MACOCA in Maharashtra, is opposing POTO here? How can a law that applies to organised crimes syndicate such as Abu Salem not apply to terrorist organisations, such as, Lashkar-e-Toiba or Al-Qaida or to Osama bin Laden? If the Congress Party feels that the POTO is draconian, then they should first repeal the MACOCA in Maharashtra before they raise their voice in this august House.

Let me give you some figures as to how the MACOCA has become successful. The MACOCA has become successful in Maharashtra because out of 21 cases decided so far, 16 have resulted in conviction. This was against the organised crime. When it could be successful in Maharashtra, I am sure that the POTO would also be successful as soon as it is accepted by this august House.

13.00 hrs.

If you leave aside petty offences, the success rate as per the present law is only 6.5 per cent whereas the success rate of MACOCA in Maharashtra is more than 75 per cent.

Sir, a question was raised here about the protection of witnesses which has been provided in this Bill. I am happy to mention that the protection of witnesses is absolutely necessary, as rightly mentioned by the hon. Home Minister. In the case of the assassination of Gen. Vaidya, we are all aware that the witnesses, even the members of the family, could not come forward to give evidence because they were afraid of the consequences. Therefore, it is necessary that such provisions are included in the Bill.

The important point which has been raised by the Opposition from time to time is that they are afraid that this law might be used against minorities. I must say that any criminal is a criminal, whether he belongs to a minority community or the majority community. I would like to quote some of the names of persons against whom cases were filed under TADA during the tenure of the Government headed by the Congress Party. They are Yaqub Memon, Sharif Sarkar, Abdul Ghani Mailsur, Ashraf Mukadam, Faruq Pable, Pervez Sheikh etc. Who are these people who were arrested under TADA? I am not going to read the entire list, but I have the entire list with me which shows that these were notorious criminals and therefore they were arrested.

Sir, even during the application of MACOCA, you will find that most of the gangsters arrested in Mumbai were the gangsters belonging to Dawood gang. So, whenever some people oppose POTO or oppose the Act like MACOCA, I would like to ask them a question. Are we going to look into the religion of the people arrested or are we going to act as per the provisions of the law? I would like to mention here that wherever Dawood's people were arrested, all their deeds were serious crimes. In cases of crimes relating to murder, extortion, possession of fake currency, illegal fire arms and ammunition etc., would you accuse a bias in enforcing the law against a particular community? I am sure that wherever there is a possibility of such misuse, the Government has taken all the necessary precautions to stop that.

Sir, action under TADA in the Mumbai bomb blast case was taken by the Government headed by the Congress Party and action under MACOCA is also being

taken by the Congress-led coalition Government in Maharashtra. We could proceed with the trial in the Mumbai bomb blast case only because there was an Act like TADA. Would you not like these criminals to be arrested and tried for the offences that they are committing? Unless the misdeeds and evil intentions are curbed timely, I am afraid that there would be further inroads into administration and politics. Then, the things will become worse and our country will become another Afghanistan which was being ruled by the Taliban. If you see the list of people arrested, you will find that they were notorious people and therefore action against them was necessary.

Sir, in the case of POTO, a special provision has been made that if a confession made before a police officer is going to be accepted, within 24 hours the confession has also to be recorded before the Chief Judicial Magistrate and therefore all necessary precautions have been taken in this Bill. As regards the fear of misuse of this law, very often TADA is quoted, but in TADA the provisions were different. It was made absolutely clear by the hon. Home Minister that those provisions which were dangerous have been removed and a new Bill has been brought in.

Some people, while speaking on this Bill, have said that in the list of banned organisations, all of them are belonging to minorities. But I would like to mention that only eight organisations out of a list of 25 are concerning minorities and rest of the organisations have no concern with minority communities. A demand was also made, either in the Lok Sabha or Rajya Sabha, for banning *Vishwa Hindu Parishad* and *Bajrang Dal*.

I would request the hon. Minister of Home Affairs never to think of banning these organisations which are for national interests. They have not done anything wrong of the nature of other organisations that I have mentioned...*(Interruptions)* The Government should not yield...*(Interruptions)*

Let me know a single activity done by these organisations which is against the national interests. Therefore, the Shiv Sena will not tolerate any action being taken against these organisations. These are working in the interest of the nation....*(Interruptions)*

I must say that all the Chief Ministers have, from time to time, also supported POTO. The general consensus in the country, as the hon. Minister of Home Affairs has said, seems to be in the interest of POTO.

I must also say that it has been heard that Osama Bin Laden has said: "The biggest enemies of Islam are in India and the USA.

MR. DEPUTY SPEAKER: Shri Puglia, no interruptions, please.

SHRI MANOHAR JOSHI: I must say that unfortunately in this country some people are supporting the *Jehad*. They are working on the lines of the Taliban.

MR. DEPUTY SPEAKER: Please do not disturb.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Puglia, please resume your seat. Do not disturb now.

SHRI MANOHAR JOSHI: I must refer that from the Jama Masjid, Shahi Imam has appealed to the Muslims to join *Jehad*. I think, if such appeals are made, these are most risky and not in the interest of unity and integrity of the country. Therefore, if action is to be taken, it should be taken against Shahi Imam. Strict measures should be taken against him. If he makes any propaganda in favour of *Jehad*, strict action should be taken against him under POTO.

I have always been saying that all of us must be united on this issue. I find an illustration. When President Bush took action, it was quick. The people in every country thought that action against the terrorists and also against the Government of Pakistan would be quick. I also found that when President Bush took action, the entire country stood behind him. I wish that whatever action the hon. Prime Minister, Shri Vajpayee, is taking, we must all stand behind him unitedly in the interests of the country.

In the case of Israel also, we have found the same thing. All the people of Israel supported the action against the Pakistanis. Unfortunately here, the country is divided. That creates a problem for us.

MR. DEPUTY SPEAKER: Now, you please conclude. There were nine minutes. But you have taken 24 minutes.

SHRI MANOHAR JOSHI: I will conclude in a minute.

MR. DEPUTY SPEAKER: Otherwise, you will not be able in a position to finish your speech.

SHRI MANOHAR JOSHI: Sir, the Government cannot take action without a weapon...*(Interruptions)*

MR. DEPUTY SPEAKER: Shri Rawale, I am here to regulate the House.



SHRI MANOHAR JOSHI: We have given one weapon in the hands of the Minister of Home Affairs. If we want the terrorists to be stopped, we must give him more weapons that is, a stricter law than the present one. Then, I am sure, he will be successful.

Finally, I would say that on such issues, the country should be united. We must act unanimously. If we want to strengthen the country, the only way out is to pass this Bill unanimously and assist the Government.

MR. DEPUTY SPEAKER: Now, Shri Somnath Chatterjee. You can also take up Shri Basu Deb Acharia's point of order.

SHRI SOMNATH CHATTERJEE (Bolpur): Sir, I think, no time-limit is there. I find that the Shiv Sena did not have any time-limit.

MR. DEPUTY SPEAKER: He has taken enough time. What to do? He is a senior leader.

SHRI SOMNATH CHATTERJEE: Mr. Deputy Speaker Sir, the hon. Home Minister said that our hon. Prime Minister has the unique distinction of attending all the three Joint Sittings of this Parliament of India, as if it was a great distinction, I do not know. But at least, he has acquired the distinction of presiding over the conscious decimation of the secular fabric of this country.

Under the benign protection of our esteemed Prime Minister, a State-wise sponsored, a political party sponsored mayhem is carried on in one of the States in this country, where on the basis of religion people are being butchered and the Chief Minister of that State is trying to justify the mass scale killings on the basis of a reaction to a very condemnable incident. What more pronounced misutilisation of POTO can be there?

I was waiting for the hon. Home Minister to make a reference to that. In this State selectively POTO was used against minorities. For 85 killings which were absolutely ghastly killings, the use of POTO was justified against those criminals. On what basis it was not applied against the people belonging to the majority community, who had indulged in that mass killing in Gujarat? When it became too hot, when suddenly, probably some message had gone from Delhi that 'the Joint Sitting is going to be held, we have to take up a posture of neutrality of evenhandedness', we find sudden withdrawal of such cases under POTO against the minorities. The hon. Home Minister conscientiously, I believe, did not refer to that.

Now, what we find even today is that the police officers have been shunted out because they had taken certain action against the majority people there. They are being transferred. There we find that without any contradiction - we have not seen any contradiction - the police officers are saying in Gujarat: "Allow us to function, you are keeping us almost handicapped, we cannot function, we cannot take action against the perpetrators of such heinous crime". Not one word has come either from the hon. Prime Minister or from the hon. Home Minister, I would like to know what is the response of the hon. Prime Minister or the hon. Home Minister towards the deliberate insult that has been committed by one of the Chief Ministers belonging to the party of the Prime Minister himself. In what language he has criticised the Parliament as a whole? He says and I am quoting because there is no rejoinder, I take it he has been correctly quoted: "There is a systematic attempt made by hypocrites sitting in Delhi to exaggerate the Gujarat situation and they are using the Parliament."

Therefore, I take it that the BJP top leadership approves of this and the Prime Minister approves of this. And today, we have been told about the great institution of Parliament, which they are deliberately denigrating. There is a limit to double standards. This Joint Session is being held not for upholding any parliamentary tradition but because of the intransigence of this Government in imposing the democratic people of this country a most draconian piece of legislation.

Sir, people like us consider this nothing but a declaration of war on the ordinary people of this country. We know the real victims of this legislation, as has already been seen, will be not the die-hard terrorists because you are unable to catch hold of them but against your detractors, political detractors and particularly against the minorities, as we have already seen.

Sir, the Constitution of India was adopted in this great Hall by the founding fathers, who fought for Independence and freedom, made sacrifices and they fought for the unity and integrity of this country. They believed that secularism and equality would not be mere *mantras* but would be practised by those who will be ruling this country. And that would be the commitment of the nation as a whole and that would find its culmination in the governance of this country. But, Sir, what has happened today? This great Hall, which has given our great Constitution, where equality is a fundamental right, where protection of minorities is a fundamental commitment of the country as whole, is being defiled today by what I feel three power-hungry marauders of democratic and human rights. They are intent on dividing the nation on the basis of religion with the help of

fundamentalist and obscurantist forces like VHP, Bajrang Dal and RSS, and what I consider tragically supported by some misguided friends, who have mortgaged their democratic conscience by joining in an opportunistic alliance for sharing power and the attendant benefits.

Sir, I charge this Government of trying to pull down every sacred cornerstone of the great edifice of our Constitution. They are being dismantled by this Government who will go down in the history as the attempted wreckers of the Constitution.

Sir, I saw and heard the hon. Home Minister saying on the Television in the other House that no motive should be imputed to them and that people should accept the assurances of good behaviour on the part of this Government. But, Mr. Home Minister, did you consider, has the Prime Minister been good enough to consider what is your credibility in this country, what is your Government's credibility in this country? You have violated every promise made to the people. Every assurance and every constitutional commitment to the people have been jettisoned. The people's unity is at stake. Equality under the Constitution has lost all relevance. Secularism is in shambles.

Indian economy is in tatters. Federalism has become a very dispensable commodity, concept. The promise of one crore jobs every year has become a joke. Even the concept of *Swadeshi*, which many of you still mention from housetops, has become an outdated concept of this Government. Our foreign policy, which has been the common foreign policy of this country, has been expressly sacrificed to keep some of your friends happy. That is why, whenever there is a new occasion before the people to express their views, they are doing it unreservedly. That is why, you are losing one after another election. You have lost your base and the people, in no uncertain terms, have given their verdict. Their verdict is against this motley combination which is surviving only for the purpose of sharing the spoils.

Mr. Deputy Speaker, Sir, I have no doubt when the time will come for the people of India as a whole to give their verdict, they will consign this outfit to the dustbin of history. This law is to be implemented by the State Governments primarily. But how many States the BJP and its Allies are ruling? BJP rules only in three States and its Allies are in power in four others. Maybe, in the next some other election, it will go minus one. Sir, 20 States have Governments belonging to Opposition Parties or to Parties outside the NDA. In two States, there is President's Rule. Even the people of Uttar Pradesh and Uttaranchal have shown them the door. But no lesson has been learnt. Sir, it is inevitable that the nemesis will

overtake them but the trouble is, in the meantime, the country suffers and the people are burnt alive in one of the States ruled by the BJP, namely, Gujarat.

Sir, we are reminded every time of this. We know that. We have never disputed that terrorism has become a worldwide phenomenon; that we are suffering from cross-border terrorism; and that proxy war is upon us. Who has denied it? Can there be a single instance cited by this Government when the Opposition Parties have not co-operated with them? Whenever the hon. Prime Minister thought it fit to call us, which may be very rarely, or on those rare occasions when there is trouble within BJP, I have said that—we have openly supported even whatever proposals were there regarding Kashmir. We supported the cease-fire. I said: "If you want it, we support it." They wanted the cease-fire to be withdrawn. We supported it. Can you cite a single instance where the Opposition Parties did not co-operate? Not a single occasion can be cited when we have, in any way, tried to deal with it as a partisan matter? If the Government feels and as they say now that this is a national problem, then why national approach is made? Instead of mentioning that some Chief Ministers have been quietly telling him something—obviously the cannot name them—and trying to create a suspicion about the *bona fides* of Chief Ministers ruled by other Parties, why no national approach is made? You are trying to create an aura of suspicion about the duly elected Chief Ministers in this country. I did not expect this from Shri Lal Krishna Advani. Although I have been deliberately misquoted, I have said it in Parliament, I never denied it that yes, coming from a border State when I was speaking for West Bengal, as I am a Member from West Bengal, some special law may be necessary but we are against the draft POTO Bill which had been even recommended by the Law Commission.

Why do you not sit with us across the table, take up clause by clause and tell us what are the problems faced by this Government. The West Bengal Government is facing the problem but what is the solution. He says that he has given a list. I do not know whether he should be guided by the Law Minister. Shri Advani has read out a list of who supported it and who did not support. If the law was necessary for the country's benefit, it would have been passed, as a whole, by acclamation but you have made it a partisan matter.

We have said that the National Human Rights Commission has given its views and so let us consider it. Suddenly we found that an Ordinance was promulgated, after the House had been summoned or when the House was going to be summoned, on the 24th of October. It is not a red-letter day but a black-letter day. It is one of

[Shri Somnath Chatterjee]

the blackest days of this country. It shows how the whole Parliament system is being sought to be affected and decimated, how the Government treats the Opposition parties. You are in a hopeless minority so far as the State Governments are concerned. What was the basic necessity of this Ordinance?

The other day, during the last stages of deliberations in the Lok Sabha on this Bill, I asked only one question to the hon. Home Minister: "You have this law from the 24th of October but what is the result? How many cases have you apprehended? What has been the effect on Jammu and Kashmir? What is the effect on the North-Eastern States? What is its effect on the ISI activities? How many people have been apprehended? How many terrorist attacks have been prevented since this is a preventive law?" He said that he would give those figures but even today we have not got those figures.

From the 24th of October, this law is in full force. I would like to know what the outcome has been. Why could they not stop the 13th December attack? Mr. Prime Minister, you abused us in Shri Sharad Pawar's birthday party. You said that we were irresponsible people in the Opposition. Shri Advani has been repeatedly saying, 'Whatever may happen, we are in a win-win situation but look at the irresponsibility of the Opposition.' He echoed George Bush. Sometimes it seems, Lal Krishna Advani has become Lal Krishna Bush. He echoed George Bush and said: "Those who oppose POTO are in effect supporting terrorism. They are being soft so far as terrorists are concerned." We can reject this type of fulmination totally. I would ask the hon. Home Minister – I understand, the hon. Prime Minister would intervene and I hope he does – why the Government could not stop the attack on the 13th of December on Parliament building when you had full knowledge of it. Today, you have made it a fortress. We do not mind it. Certainly, you have to protect Parliament. My charge is, with full knowledge, you did not take any step because you wanted to utilise it against the Opposition parties...*(Interruptions)*

Sir, the hon. Leader of the Opposition has referred to some of the glorious interventions of our present Minister of External Affairs. I am his unabashed admirer. I think, he knows that although he continues to remain in that company. His observations have already been quoted.

Sir, I am coming to my sister, Shrimati Sushma Swaraj, the most articulate of them. Of course, Shri Yashwant Sinha, in a great bravado, did not imagine that he would be the Minister of Finance one day he has to find out moneys for tackling the terrorists. He also said something. It has been quoted and I need not quote it. Our worthy hon. Minister of Defence has also said certain things.

Now, I would like to quote about the recent convert, Shri Ram Jethmalani, our distinguished friend. I hope he is present here. I quote:

"You have created a law of which any decent person should be ashamed of."

I think, either he has become indecent or the sense of shame has gone. Now, he has chosen his present company. I again quote his observations:

"I wish there were some educated people to advise the then Minister of Home Affairs."

Of course, it should equally apply to the present Minister of Home Affairs. He said that there must be somebody who had some intimate knowledge of criminology, some people who had knowledge of the theory of legislation and the theory of penal legislation at that. He said that such advisors should have been available to the Minister of Home Affairs of the Congress Party. I do not remember who was there at that time.

Now, I come to my good sister. My admiration for you is not lessened by what you said earlier. She said:

"We accept that TADA has not only been misused, but has been misused flagrantly... The fundamental root of misuse is Section 3. Because this is where you begin to define a terrorist act. It is because of this definition that political opponents can be arrested under TADA...that TADA can be used on farmers... that innocent people can be caught under TADA and keep languishing for years. Your definition is so broad that any person—an ordinary criminal who could be charged under the IPC is also picked up under this Act thus defeating its very purpose and intention.

I know your conscience is troubling you. We have got the expression of half of it otherwise. But today how is it different Mr. Home Minister? In what way? It is because you are going to implement it. You are threatening the people for five long months. You think the test of patriotism is dependent on the support a person gives to the POTO. What will you do? Unfortunately, it will become the law and it will be a permanent legislation. You do not have to go on renewing it. It will give a little respite to Shri Pramod Mahajan. He does not have to gather people here to get this Ordinance enacted and law passed. But what will you do tomorrow with this law, Mr. Home Minister? You said: 'well, I had thought the USA would react in certain manner; this country would react in such a manner'.

What did you gain by your kowtowing to the U.S. President? I would not use strong language for your statements, observations or whatever it may be. How would he come to your rescue? Which foreign country has come to your rescue? Merely by following one law in terms of the Security Council or the U.N. General Assembly Session, will it solve the problem? Can you guarantee us from here, from this rostrum, Mr. Prime Minister, Mr. Home Minister, that after this becomes a permanent law in our Statute Book there will be no incident? Sixteen year old boys have been arrested in Gujarat under POTO. This is the type of use of that you have been putting it to. Minorities are being attacked. How will you stop terrorism, I would like to know. We should all the time remember that this law is in full force from 24th of October, 2001, the submissions are being made as if only if it becomes a law today, it will be used. This is a completely wrong impression which is being created throughout the country.

Till today, we have not been told what was the tearing hurry for issuing this Ordinance. We have not been told what were the reasons which would justify this Ordinance. We have been waiting for an answer, but no answer has been given.

How could this law will be utilised by them, I would try to show in my humble way. The whole object is to carry on a virulent propaganda on the basis of POTO. This POTO could never be utilised. Even now, no Special Court has been constituted till today. Only in this Bill, not earlier, they provided that the present Sessions Court can act as a Special Court. That is only when the new Bill has come in. Till January-February, there was no Special Court to try any of these offences. No designated authority, no public prosecutors have been appointed. No rules have been framed under clause 19 even regarding forfeiture or otherwise. No Review Committee has been constituted either. Then how can this law be implemented? Why are you showing POTO as if this is the panacea for all evils when you are not sincere about its implementation? Even if we have been opposing, you do not care for our sentiments. You do not care for the entire Opposition's views in this matter. You do not care that today a majority of the States perhaps will not implement it. But even then you must have your *zid* and you must go on with this because you want to indulge in propaganda and probably you want to show to President Bush that here I have passed a law.

I charge that really it has been a still-born legislation. But it has been hastily brought to terrorise the minorities and the Opposition parties to be utilised for the last elections that were held recently in different States.

That is why they have not been able to prevent a single terrorist act. They have not been able to cite one instance where because of this law they could prevent some action being taken.

Therefore, I charge whatever may be the anguish of the hon. Minister of Home Affairs who may feel that "Oh, well, you are not accepting our *bona fide*", I am sorry that in respect of this measure we suspect the *bona fides* of this unnecessary law, of this black law and we cannot accept the *bona fides* of this Government so far as this law is concerned.

Many well-known people, jurists including Shri Fali S. Nariman - you may not be liking him today so much - have said about it. "Do not accept the humble views of a humble lawyer like me". But there are eminent people, the National Human Rights Commission who said on it. What has been said by the National Human Rights Commission? They said:

"The Commission is unanimously of the considered view that there is no need to enact a law based on the draft Prevention of Terrorism Bill, 2000 and the needed solution can be found under the existing laws, if properly enforced and implemented, and amended, if necessary. The proposed Bill, if enacted, would have the ill-effect of providing unintentionally a strong weapon capable of gross misuse and violation of human rights which must be avoided particularly in view of the experience of the misuse in the recent past of TADA and earlier of MISA of the Emergency days."

This is not what Somnath Chatterjee says. The National Human Rights Commission, presided over by no less a person than one of the outstanding Chief Justices this country has had, Justice J.S. Verma says:

"This Commission regrets its inability to agree with the opinion of the Law Commission in its 173rd Report and recommends that a new law based on the draft Prevention of Terrorism Bill, 2000 be not enacted. Such a course is consistent with our country's determination to combat and triumph over terrorism in a manner also consistent with the promotion and protection of human rights."

Unfortunately, none of the Members of the National Human Rights Commission is a Member of the CPI (M). I would have liked them to be so; but they are not.

The Commonwealth Human Rights Initiative presided over by Justice Leila Seth, former Chief Justice says:

"We strongly advocate that the Prevention of Terrorism Ordinance 2001 will impinge on the rights

[Shri Somnath Chatterjee]

of the citizens as seen in the earlier terrorism Bill, the TADA which, instead of being able to curtail terrorism, incarcerated thousands of innocent people."

I do not wish to go into too many details about their misuse. Recently, the Supreme Court, only two days back, has about TADA that TADA was a serious inroad to the liberty of an individual. The Bench consisting of Justice Banerjee and Justice Venkatarama Reddy said: TADA cannot but be said to be a drastic piece of legislation." If I may quote, the Bench also wondered "whether the Police had planted the case on the accused or roped him in." These are the types of misuse done. It then says: "Is this deliberate to cover up or to present a make-belief situation which otherwise tends not only improbable but totally absurd?" The Bench asked this and noted: "The State Government's advocate has answered the same in silence rather than on a definite note."

The recent observation of the Supreme Court on one of the cases of misuse of TADA in another case is there. Another Bench comprising Justice M.B. Shah and Justice Dharmadhikari dismissed the Gujarat Government's appeal against the acquittal of one WAQAR Ahmed Abdul Hamid Sheikh who was arrested for the same offence and tried on the same evidence by which the Apex Court had dismissed the Government's appeal relating to another accused in 1997.

With regard to the same offence, 'this person has been in jail for years together.' These are the observations of the Supreme Court. Of course, we have seen the instance of its misuse in Gujarat. Sir, we have got some of these particulars about the numbers of cases where only a few, very minimum people had been ultimately proceeded with or could be sentenced. They have all resulted in acquittals in most of the cases, but they have spent years and years in jail, without any trial and without any opportunity to vindicate their positions. I appeal to all sections of the House that this is the irony of the situation than an important matter, namely, fight against terrorism has been made a partisan issue by this Government because its real intention is not to fight terrorism but to fight for some other purposes which they want to keep hidden. We have seen how the hidden agenda of this Government has come out. We have seen what happened in Ayodhya. There is no longer any secret. This Government has participated in the religious function. It has now become the holder of consecrated stones. There, they will appoint *pujaris* to perform *puja*. This is the function of this Government! Under this Government, this has happened.

Sir, therefore, when all these important organisations/ persons are saying that there are adequate provisions in

the law, if they had thought of tightening some of the laws and some other provisions, I can understand that. I can understand that some provisions regarding bail, and some provisions regarding quick disposal of the cases could have been amended. Nobody would have opposed it if properly conceived legislations had been brought about. Mr. Deputy Speaker, Sir, therefore...*(Interruptions)*

MR. DEPUTY SPEAKER: I am also aware of the time.

...*(Interruptions)*

SHRI SOMNATH CHATTERJEE: Sir, so far as the Bill is concerned....*(Interruptions)*

*[Translation]*

SHRI SURESH RAMRAO JADHAV: Mr. Deputy Speaker, Sir, how much more time will he take?

*[English]*

MR. DEPUTY SPEAKER: Shri Jadhav, will please keep quiet? Only nine minutes of time was there for Shri Joshi, but he spoke for 24 minutes. When senior leaders speak, they know their responsibility. Every time, you are disturbing like this.

SHRI SOMNATH CHATTERJEE: Mr. Deputy Speaker, Sir, there are many of these problems. The Law Minister is fully aware that the gravest concerns are shown regarding the width of definition of terrorist acts under clause (c), with regard to seizure of property and with regard to terrorist organisations. I am not going into the details with regard to provisions of the Bill.

MR. DEPUTY SPEAKER: There is no time.

SHRI SOMNATH CHATTERJEE: About the review committees, I would ask how non-judicial persons, how non-legally trained persons can be members of the review committee. Then, the onus is put on the person charged. So far as membership of terrorist organisation is concerned, one has to prove the negative. Then, the onus is shifted on the accused regarding wide amplitude of so-called support to the terrorist organisations. Then, clause 29 provides for summary trial. Clause 30 provides for something unique, that is, names of the witnesses will not be divulged. This is against all canons of proper trial. Then, everybody has condemned the provision of confessions before the police officer. This is an anathema to law.

MR. DEPUTY SPEAKER: Shri Somnath Chatterjee, please conclude.

SHRI SOMNATH CHATTERJEE: Sir, I will take half-a-minute more. These are the serious lacunae in this law, so-called law. I call it a lawless law.

I only wish to say to Mr. Prime Minister that you find this country divided today in the middle on this issue. In majority of the States, you cannot implement this law. You have to do it through Central forces. That will be a direct attack on the federal concept of this country and on the Constitution. In good grace, you should withdraw this. You have made it a prestigious issue. All sorts of propaganda are going on that something historic is going to take place.

Sir, we are sorry that one provision of the Constitution of India is being misused for partisan purpose of this Government, which has forfeited all support of the people of this country as has been proved by the recent elections.

I thoroughly and totally oppose this Bill.

SHRI K. YERRANNAIDU (Srikakulam): Hon. Deputy Speaker, Sir, I am very grateful to you for giving me an opportunity to speak on this Prevention of Terrorism Act.

The country is facing several terrorism and cross-border terrorism. POTO is the need of the hour to combat terrorism and cross-border terrorism. I am speaking on behalf of my Telugu Desam Party. My Party is supporting POTO as proposed by the Government of India.

Sir, we are all aware that we have enacted so many legislations in our country. Even in the year 1980, there was a legislation, that is, the National Security Act. We have the Prevention of Narcotics Act, we have the Essential Commodities Act, we have MISA, we have NSA, and we have TADA. We have so many legislations to control crimes. Why have we enacted so many special laws? That is my question.

The situations are different. Now, the country is facing terrorism and cross-border terrorism. In the last 20 years, we lost 61,000 civilians, who were killed by the terrorists, and nearly 8,000 security guards were killed in these terrorist acts. Even recently, on the 13th of December, terrorists attacked the Indian Parliament. Therefore, the need of the hour is to legislate a special law. So many Governments, depending upon the scenario existing in their States, have enacted such special laws. Even the Maharashtra Government, where the Congress is in power, has implemented MACOCA very effectively and efficiently. The Andhra Pradesh Government also replicated MACOCA. It has also enacted the same legislation and it is being implemented in Andhra Pradesh.

The Karnataka Government also enacted a similar law. They have also passed a legislation and it is pending before the President of India for his consent. Even recently, the West Bengal Government also enacted this special legislation...*(Interruptions)*

SHRI RUPCHAND PAL (Hooghly): No.

SHRI K. YERRANNAIDU: They propose to enact a special law. Today, your Chief Minister made a statement, which you can read in the newspapers. After POTO, I will talk about that special legislation. What he said came out in the newspapers today.

We are not against any religion or community or any group. This legislation is aimed at combating not only terrorism within the country but cross border terrorism as well. Through this legislation we have to root out terrorism completely from our soil. This is the crux of the whole legislation. In this scenario we all together should pass this legislation.

Sir, TADA was enacted in 1985 and the provisions of this Act were extended till the year 1995. So, in all, this Act was in operation for ten years in this country. Everybody knows that Act was misused. Even we had MISA in our country and we all know what happened consequently in the 1977 General Elections. MISA was misused by various State Governments and the people gave their verdict in the 1977 elections and the Janata Party Government came to power. So, if any State Government or the Central Government misuses a law, then people, who are always the better judges, would punish them in course of time.

Sir, this law also would have to be implemented by the State Governments. Presently, 15 States are ruled by Congress Governments, seven other States are ruled by regional political parties and only three States are ruled by the BJP Governments. So, we should have the will not to misuse this law and that the State Governments should take stern action against the culprits. If this law is implemented properly, then acts of terrorism would get largely reduced in our country. In the last 20 years, the Government of India has had to spend a sum of Rs. 45,000 crore for maintaining our Armed Forces. Today we are facing shortage of drinking water in our country; there is lack of all-weather roads and even there are no houses for our poor people. The acts of terrorism have rendered about six lakh people of our country homeless. We all have witnessed these things in our country. Under the circumstances, we have unanimously pass this Bill to combat terrorism. If there is any misuse of this Act, then the people would teach those Governments a suitable lesson at the appropriate time.

[Shri K. Yerrannaidu]

Sir, everybody has been appreciating the efforts of the Maharashtra Government for their having implemented the MACOCA effectively. Although the number of cases registered under it is less, yet the conviction rate is 75 per cent. Even in our State, we are controlling organised crimes by implementing the provisions of a special legislation in this regard. We are achieving the desired results. If a law is found to be bad, then we could have a re-think about it at a later stage. Everything is in our hands. If any provision of the Act is found to be misused continuously, then it could be amended suitably or it could even be repealed altogether.

Sir, my party had given certain suggestions when this Prevention of Terrorism Ordinance (POTO) was issued. It related to the reduction of the period from five years to three years. We have to protect the Fundamental Rights of the people of our country and with a view to doing this we made a suggestion to amend Sections 38 and 14 of the Bill. The Cabinet took a decision to amend those two Sections and accepted the suggestions made by our party. So, we are supporting this Bill in toto that is being sought to be passed with a view to combating not only terrorism within the country but also cross-border terrorism. We are supporting this Bill as it is.

[Translation]

SHRI MULAYAM SINGH YADAV (Sambhal): Mr. Deputy Speaker, Sir, I am very sorry to say that this Government is not trying to learn any lesson from History. The Prime Minister was sitting here. He has just now left the House. It has been said many times that he has attended all three historic sittings like this however this Government and the Prime Minister did not make any effort to learn any lesson. Everyone knows the fate of those who do not learn from history. They not only ruin themselves rather they also cause destruction of their allies. It has been publicised in many newspapers that Pandit Jawahar Lal Nehru had praised the Prime Minister for being good parliamentarian and had forecasted that he would become a prominent leader and might become the Prime Minister of the country. But did he follow the ideals of Nehru ji? The first joint sitting was convened in 1961 in which Anti-Dowry Bill was moved. At that time if Pandit Jawahar Lal Nehru had wanted he would have got this Bill passed in Rajya Sabha and joint sitting would not have been required as he had thumping majority in both the Houses. But in spite of that following the democratic traditions and moral values Nehru ji had called joint session of Parliament at that time as the Rajya Sabha had returned the Anti-Dowry Bill. By doing so he had set an example.

14.00 hrs.

Pandit Nehru had not pressurised his Members to vote in favour or against the Bill during the voting in the joint sitting. Rather he had given them full freedom for voting. We know that such precedent has been created. The allies do not want to support POTO, however BJP leadership and the Prime Minister are pressurising the Members of allies to vote in favour of POTO. They have lust for ministership and the facilities. All the hon'ble Members of allies except those who are holding the post of Ministers say to us that they do not intend to support the POTO Bill, however today they are being compelled to vote in favour of POTO as they have to follow the whip. So I would like to submit that we cannot rely on the leadership of Bhartiya Janta Party as there is no coordination in their speech and action and it is meaningless to expect about democratic traditions and norms from them.

I hope that if the present Government learns any lesson from history then even at this stage the hon'ble Minister can withdraw this dangerous and draconian Bill. After passing this Bill it will come under the jurisdiction of the State Governments. The police of the State Government will implement it. Rajya Sabha is the representative house of the State and when the Rajya Sabha has rejected the Bill by majority the Government should have followed the democratic traditions and norms and it should have accepted the opinion of the Rajya Sabha. I would like to submit to the hon'ble Minister of Home Affairs that as the Rajya Sabha represents all the States and as it is the State Governments which would implement the laws after its enactment, its police will implement it when the Rajya Sabha had returned the Bill, the Government should not have convened the joint sitting and it should have honoured the opinion of the Rajya Sabha once it was rejected by the Upper House. If the Government had any respect for democratic traditions, norms and moral values it should have honoured the opinion of the Rajya Sabha and the joint sitting should not have convened. However, I have already said that when the present Government have discarded the democratic tradition, norms and moral values, it is useless to expect any thing from it

Mr. Deputy Speaker, Sir, POTO is more dangerous and draconian law than Rowlat Act 1919. When Rowlat Act was implemented all the leaders of the country including Gandhiji had strongly opposed it and it was opposed so strongly that Gandhiji had called for a movement and strike all over the country and the national wide movement was launched under the leadership of Gandhiji against the Rowlat Act.

Sir, Mahatma Gandhi had sent a telegram to the then Member of Central Legislative Assembly Pt. Madan Mohan Malviya on 26 February, 1919. I would like to quote few lines what he had written 'Malviya ji whatever physical and mental power bestowed upon you by the God, you should use all those power to check the passing of this black law by the Parliament.' This he had written on 26 February 1919 against the Rowllat Act and today it is 26 March, 2002 that means after 83 years and one month once again you are trying your best to get the same type of dangerous Bill be passed by the Parliament. At that time it was widely opposed. So today I would certainly like to appeal to all the Members in the House who are the followers of Gandhi and supporter of Rowllat Act that they should oppose it. If the Bill is passed in spite of our opposition, then we will go to the people. Hence I would like to urge all the Gandhians that they should unitedly oppose it. Even if you get it passed by uniting together, we will have to launch a countrywide movement to oppose it.

Hon. Minister of Home, Sir, you are aware that however hard you may try to convince and assure the House, it will be misused. You are well aware as to how much TADA was misused. You might be remembering how 11 sikh pilgrims were killed at a place between Etah and Budayun in 1991. You had visited the site and you have seen it yourself as to how the police acted. They were not the Punjab militants. Right now, Somnathji told us as to how a 16 year old boy was arrested under TADA. We have also been told how a 12 years old boy was imprisoned in Pilibhoet under TADA. We held a probe into it and we made the chairperson of the Minority Commission Shri Ahmad Hussain visit the jail where the boy was imprisoned and got him released from jail. The leader of Akali Dal Toharaji also visited there. He had made a statement in favour of our Government. Killings took place during the regime of your party but when we released 1141 persons out of the total 1152 persons imprisoned under TADA and terrorism of the tarai region was eliminated.

Sir, I would like to tell that the Sikh brothers in the tarai region of Uttar Pradesh have made the soil so fertile with their hard work that today per acre produce of the region is more than that of Punjab. We had got all the people released at that time. When your Government was in power even then innocent sikhs were being imprisoned under TADA. Their petrol pumps were being dismantled. However after our Government coming to power and releasing all the TADA prisoners, terrorism had been eliminated from Uttar Pradesh. Hence however much you keep on saying that misuse will not take place but once the legislation is passed by the House and the law is started to be enforced by the police, you will not

be able to interfere. Then you will try to evade the issue by labelling it as a subject matter of the States. We are aware. Our colleagues has just spoken this issue in a way unexpected of him. Today the present Defence Minister and Shri Janeshwar Mishraji are sitting here. He knows and we also know that Janeshwar Mishraji was imprisoned under DIR for 11 months for inviting the wrath of a Collector of Allahabad.

Whenever such kind of laws are formulated then the rhetorics of national interest come to the forefront. Everybody knows as to how many people have been subjected to torture in the name of interests of the country. It was under such laws that the great patriots and freedom fighters like Ram Manohar Lohia, Shri Karpoori Thakur and Ramand Tiwari were put in jail after the formulation of those in the post China war phase of 1962. I gave the example of Shri Janeshwar Mishraji as to how he was jailed for 11 months under DIR. When was he set free? When Vijaya Lakshmi Pandit was contesting elections from Phulpur in Allahabad and Shri Janeshwar Mishraji had filled his nomination from the jail itself feeling of anger was prevailing among the names against the imprisonment of Shri Janeshwar Mishraji and when they were turning more towards him even Vijaya Lakshmi Pandit opposed his imprisonment, then the U.P. Government had to set him free from jail in view of the resentment shown by the masses. All the black laws have been misused. Everybody condemned the Godhra incident. Today we want to condemn it again in that the most heinous of the crimes has been committed but whatever atrocities were committed against boys, girls, the young and old and the innocent muslims as retaliatory action were even more dangerous than the Godhra incident.

I would like to ask as to who were those 62 people who had been imprisoned under TADA with reference to Godhra incident. They were all Muslims. Today they have been released because the Joint Session of the Parliament was due to take place and it would have been criticised in it. You withdrew POTO because you wanted to get this Law passed in the Parliament and evade criticism. Secondly, wrong act was committed and some of the officers who worked impartially and without fear or favour during the riots were transferred from Gujarat. They were likely to take action against the guilty people of the BJP, the Vishwa Hindu Parishad and Bajrang Dal who had taken resort to riots and killings. A stern action was likely to be taken against them. It was due to this reason that these officers were transferred. Hence I would like to say that we cannot be convinced by your assurance because recently POTO was misused against the Muslims only. Dr. Shyama Prasad Mukherjee had opposed this law immediately after the adoption of the constitution. He went to the extent of saying and I



[Shri Mulayam Singh Yadav]

would quote from his speech delivered on 13th February 1951 in the provisional legislative assembly after completion of 10 month of the Preventive Detention Act. Though he was anti-communist yet he never challenged their commitment and their patriotism in his speech. Challenging Sardar Patel who had brought the legislation for introduction he had said that Communist can never be stopped by the Preventive Detention Act. The lawlessness prevailing in the country also cannot be checked by this law. This can only be stopped when the people responsible for it are checked. The Government, the poor financial condition and the inefficient administration are responsible for it unless the people are assured that we are committed for the progress of the country, this situation cannot be controlled. The Parliament will have to give an inspiring message and create assurance to the people. Suppression of thought and expression will only compound the problem. These were his words. Though the hon. Home Minister has been celebrating the golden jubilee of the raising day of Jansangh or the Bhartiya Janta Party but who can have faith in you when you can even go against your role model Dr. Shyama Prasad Mukherjee. Hence you can not be relied upon. It is true that it will be misused. It will be misused by you against the muslims and the political opponents. Everybody knows and it is no more Secret that what the Pracharaks of Swayam Sevak Sangh who are enjoying the position of emimence and privilege in this Government think about the muslims, Christians and minorities and what attitudes and the notions they harbour against them. Hence who can reply that you will not misuse it and even the psyche cannot be changed given the recent example. Hence the country will be left to the mercy of God if a dangerous law like POTO reaches to worsy hands. When the rioting, arson and killings took place in Gujarat then a dozen of phone calls were made to people of Ahmedabad. We were disturbed. I had mentioned it in Lok Sabha also. I talked to the Prime Minister on telephone on the 28th February but I could not talk to the Home Minister on phone.

Thereafter, on the second day. On 1st March Shri Amar Singh, Shri Raj Babbar and CPI leader Shri Sitaram Yechuri and Shrimati Shabana Azmi visited Ahmedabad and when Amar Singh telephoned the Chief Minister just after reaching there, hon. Chief Minister asked him as to what were the former's views and stand in that regard.

People of Gujarat and all others recognise your face, so we cannot ensure your protection. We cannot protect your life if you visit the areas in grip of communal violence, killings and arson. If the person who has been a propagandist, leader of RSS and Chief Minister of Gujarat at present says this to Shri Amar Singh and his

friends then you can imagine well to what extent he can go against Muslims and persons trying to provide justice to them.

Shri Fernandes is present here. The Minister of Defence Shri Fernandes would not have been in this World if POTO had been there in place of MISA at that time in 1975. You should have learnt a lesson from that but that is not being done. Therefore, I would like to submit to the hon'ble Minister of Home Affairs that terrorism cannot be checked by POTO. I do not want to repeat but just now Shri Somnath gave some examples, whether it is an attack on Legislative Assembly of Jammu and Kashmir on 1st October or the attack on Parliament by terrorists on 13th December. Terrorism cannot be checked by POTO as it is being sponsored from across the border. The persons receiving financial assistance from foreign countries and responsible for terrorist activities and killings were sent to Kandhar by air with a Senior Minister without filing legal case against them. The leaders of organisations like Hurriyat were released unconditionally and today they are creating trouble for the country and POTO is being introduced on this pretext. Have the Government been able to enforce POTO against those foreign terrorists.

The Government are holding dialogue with several organizations. In the name of 'Ceasefire' negotiations are being made in Bangkok and Holland with dreaded terrorists of Nagaland but no diatogue is being held with Indian youth who have adopted a wrong path. The Government hold dialogue with some specific persons and not with them. Several educated youth of our country, doctors, engineers and students of Law have been misled and adopted a wrong path, why dialogue is not being held with them. In my opinion dialogue should be held with them. The credibility of the Government is doubtful and proper implementation of law is not expected. Though it is not in your hands that innocent persons will be saved from this law.

I would like to submit to all the hon'ble Members of the House that in real sense POTO is not a law to prevent terrorism but a law to terrorize minorities. I repeat what I submit in the beginning that leaders of Opposition parties will be prevented from criticizing this law and it will be used against those persons who would speak against it who even dares to go against the SP or Collector, will be put behind the bars under POTO. In this context I have cited example of the leader of Samajwadi Party, Shri Satish Fauji who led a movement of farmers against the district administration of Banaras in Uttar Pradesh because their land was being acquired without making any payment for compensation. Now he is in a prison in Banaras under National Security Act.

When his father, freedom fighter expressed his last desire to see his son, inspite of efforts made by us and others he was not allowed to see his father. The person who had played an important role in the freedom struggle was not able to see his son at the time of his death. After his death under pressure of several voluntary organizations and political parties, Shri Satish Fauji was released only for four hours to perform last rites of his father. Even today that innocent person is in prison in Banaras. I have taken up this case with hon'ble Minister of Home Affairs as his party was in power in the State and now Governor is there but this matter has not been taken seriously. Through this House I requested him to enquire why he has been kept in prison for so long.

14.20 hrs.

[MADAM DEPUTY CHAIRMAN DR. (SHRIMATI) NAJMA HEPTULLA  
in the Chair]

I would like to submit that with regard to enacting this law the hon'ble Minister of Home Affairs has given example of laws in USA, France and Germany. They have followed them in this respect but what about other matters. After the attack of 11th September, all the senior leaders of USA including Shri George Bush, Leaders of Britain and France visited Muslim countries and China for presenting their viewpoint on that issue. After the attack by terrorists on 13th December, in this House and several other fora we asked the Government to convene a meeting of National Integration Council to discuss the issue of terrorism but so far it could not be convened. The Government are following USA in other matters but USA sought favour of the whole world before attacking Taliban government in Afghanistan, whereas after the terrorist attack on Parliament on 13th December, the Government, instead of obtaining support of other countries, have been unable to take the political parties, voluntary organizations and intellectuals into confidence who were very much interested in lending their support. The Government may say that image and importance of the country have improved but the country has reached to such a pass that at this moment of crisis not a single country is with you.

What is happening in Gujarat, after entering the controversial premises in Ayodhya forcibly the activists of VHP stick to their decision of entering there forcibly. Now they are challenging that this controversial land will be acquired forcibly whatever may be decision of court. Who are these persons? You will say that they are the activists of VHP and Bajrang Dal. We have asked this time and again but now please tell us to which political party in Lok Sabha does Chinmayanand Swami belong, which political party in Lok Sabha do Vinay Katiyar and Swami

Adityanath represent. They should be called the members of VHP or Bajrang Dal. The country can not be run in this manner. Had all the political parties been taken into confidence before bringing this ordinance against terrorism, then no one would have opposed and it would have been passed unanimously. But now our several friends are in dilemma on this issue. But now we, as we know all the organizations of Bhartiya Janata Party had suffered due to them. We know your intention in this regard. Allied parties do not know much about it at present but would come to know later on. People of this country would not allow BJP to form government on their own. Allied parties and Yerrannaidu will know about them very well if it happens someday. Hence we want to say that others may or may not be clear but our perception is quiet clear as regards Bhartiya Janata party. One confrontation with each other which started to restore after your assurance in the National Integration Council and the affidavit you filed in the Supreme Court and the affidavit you filed in the Supreme Court and it is still continuing. At that time you had said perhaps and you might be remembering it or not that the decision by us to order firing at our Rathyatra had benefited us to large extent. Hon. Home Minister, Sir, you might have forgotten but you had said these words at this very place where you are sitting now in front of me. I had said even than that certainly you had gained through this decision but I do not want to play politics. The Government was forced to order firing for the sake of maintaining the unity and integrity of the country. I had said even then and is saying even today that 16 lives were lost for the country. I am not happy rather I am sad and anguished over it but I never gave any consideration and weight to any Shankracharya for the sake of the country and I had ordered to get him arrested. Even if 32 lives are lost in place of 16 which were lost for the sake of the country, its value can not be assessed in any term and it is what I think. Hence I say that I am well acquainted with you for I have seen you and bear you enough. However I repeat and I had said it in the morning also that you do not speak in English. The masses can not understand it. The rural people might still be watching T.V., hence you speak in the local language. If you are bent on pleasing them you should have spoken in Tamil, Malayalam or in any other Indian language but you spoke in foreign language. Those who will neglect the official language and can not respect it, can neither or will respect the country. You did not speak in Hindi despite the shouts from the back benches to do so. I had said that you speak in Hindi, the Law Minister will speak in English. However, you evaded to speak in official language. The Minister of Cabinet ranks in your Government go and ask for votes in Uttar Pradesh and say that who opposes POTO is anti national. You have learnt your lesson there, though you asked for votes on the POTO issue, how

[Shri Mulayam Singh Yadav]

many of you have come here after winning, earlier the number of MLAs from your party was 178 and now only 88 are remaining. Now it has become clear as to who was doing politics—you or we. Now you are trying to challenge me there by asserting that we won't let Mulayam Singh become the Chief Minister and you have compromised with BSP there.

A demand for the post of Deputy Chief Minister for his own sake is being made before the hon. Prime Minister....*(Interruptions)* I will become the Chief Minister when you will be reduced to the status of 15-20 and it will happen as soon as the election takes place. I do not want to be the Chief Minister by horse trading. I will neither myself loot nor let the loot of U.P. take place by appointing hundreds of Ministers—this is our policy. You have ruined Uttar Pradesh. You have made Uttar Pradesh the most backward State in the country. You will come to realise it after one to two years when you won't be able to walk on roads. Neither the electricity nor water is available there. You have ruined it by appointing an entire cavalcade of hundred Ministers. Hence I am not willing to become the Chief Minister. If I become the Chief Minister then I will have a small Cabinet cut down wasteful expenditure and check corruption. I will launch an attack on the corrupts, poverty, unemployment and the mafias. I am proud that I have not given the ticket even to a single mafia but BJP has given tickets to mafias and these have done so by taking money from them and are ~~compromising~~ compromising with them in the name of the Vice President. You yourself indulge in horse trading and accuse us of doing so. We do not do horsetrading. The Government will use POTO against the political opponents and harass the innocent citizens of the country. If you accuse us of playing politics, then whether the National Human Rights Commission which has exposed the torture and tyranny being committed in Gujarat is also playing politics? Whether the Chairperson of the Human Rights Commission who has served as the Chief Justice of the Supreme Court, is also doing politics. Whether the Chief Justice of Delhi High Court who has termed POTO as an oppressive and wild law and also that it will be misused, is also doing politics? It is neither the National Human Rights Commission nor the former Chief Justice of Delhi High Court, Chief Justice Shri Rajendra Sachar is doing politics. Not one but several eminent jurists have opposed it and we are opposing it because it will be misused by the Government against the innocent people and its political opponents.

Hon. Home Minister, Sir, you said in your speech that one may move the Court if the fundamental rights are violated. You ask the Minister of Law who is sitting besides you about the fee charged by the renowned

lawyers on the Supreme Court and I have myself seen and heard a few of them. I know of many such people in Mumbai who have secured their releases by spending at least ten lakhs rupees in the litigation and then only they could be released with their honour intact. Those innocent Muslim youth who were not having ten lakhs rupees and no lawyer and influential supporters are still languishing in jails and they made it clear to their young wives that there is no certainty of their release and you better get a new life partner for you and some such girls remarried and other did not remarry...*(Interruptions)* Innocent people were imprisoned under TADA. 77000 persons were detained under TADA at that time irrespective of whose Government was in power. Out of those only one and a half percent could be punished.

SHRI VINAY KATIYAR (Faizabad): Congress ...*(Interruptions)* It means that you were wrong...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Please sit down. You let him express his viewpoint. You speak when your turn comes. Don't interrupt.

SHRI MULAYAM SINGH YADAV: I will observe the time constraint. Your watch is faster than mine. However the Leader of the Congress has herself criticised TADA? Do you have courage? Congress brought MISA in 1975 and is suffering its consequences by sitting in the opposition. They are reigning. You will laugh. You can not attain power again once you implement POTO.

I am sorry to say that the Government, Bhartiya Janta party and the Home Minister and the hon. Prime Minister have divided the country into two parts. Majority of the people are against POTO and a fraction of the people are supporting it. You should have devised a solution and should have withdrawn this POTO. Today the country is facing the crisis and it is upto the BJP Government to keep the country united. George Saheb, had this POTO law been in operation in 1975, you would not have been in Parliament...*(Interruptions)*

THE MINISTER OF DEFENCE (SHRI GEORGE FERNANDES): He is sitting there...*(Interruptions)*

SHRI MULAYAM SINGH YADAV: If he is sitting there, you will also sit. I am not supporting him. Yes George Fernandes is saying rightly that the Congress Government had put me also into jail for 19 months in 1975, Chandrashekherji was in Congress then. He advocated for the just cause. It is to be remembered that Chandrashekher, despite being a Member of Congress and the Rajya Sabha, was also imprisoned for 19 months. Fascist forces can do anything and can put you in jail despite your being a part of the Government. This POTO

is likely to be misused against anyone once it goes into the hands of wrong and unefficient people...*(Interruptions)* You learn lesson. When Chandrashekharjee can be jailed despite being a Member of the ruling party then you can also fall pray to it. I will reiterate that don't divide the country over POTO. Today not only the entire country but the entire world is watching the proceeding of the Parliament of India and the eyes of the entire country are focussed on the Indian Parliament. Today Hindustan has been divided into two parts. On one side there are the people who are in favour of saving the democracy by opposing POTO and on the other side are the people who are suffocating democracy by supporting POTO. Today, the entire world is viewing this debate. India is the largest democracy of the world. Here on the one hand there are some people who want to protect democratic system and on the other there are some people who want to eliminate the democratic system. Therefore, we want that a way out should be found so that POTO can be withdrawn and after its withdrawal the people of entire country should be taken into confidence. IPC and Cr P C are stringent laws which have provisions of awarding stringent punishments. In 1997-78, when the Janata Party formed the Government, the Ministers of Home Affairs, Defence and the Prime Minister, all were members of Cabinet. The law and order situation had deteriorated. Two children of Navy officer Shri Chopra were killed after being kidnapped. Not only Delhi but the entire country quivered due to this sensational incident. The Delhi Police persuaded the then Home Minister Choudhary Charan Singh and the Prime Minister Morarji Desai to enact even a more stringent law but the Cabinet did not accede to that proposal. Where you not there in the Cabinet, Mr. Prime Minister. Mr. Home Minister and Mr. Defence Minister? The law which had been brought by Shri Morarji Desai was withdrawn. After that Ranga and Billa were hanged under the IPC. The police officers implicate people to avoid hard work and the subordinate police personnel nab innocent people to extort money from them or to settle personal scores against them. When POTO is passed policemen will make more money and won't have to work hard either. Nobody will dare to raise his voice against the Police and district administration. The Britishers ruled the country for a long period on the basis of IPC. I am citing you an example that Ranga and Billa were hanged under IPC and Cr PC. This Government failed to remove backwardness, provide electricity and alleviate poverty. It is even closing employment opportunities in the entire country. The Foreign Companies have got full control over our economy. Our economy has fallen into the clutches of foreign companies and developed countries and the Government have failed in every front. Hence in order to avoid criticism, the Government want to divert the attention of common people but the Samajwadi Party won't allow

this to happen. The Government are trying their level best to get this Bill passed and not taking the people into confidence. Hence I request the Government to take the people and the entire House into Confidence. Even today, it's not too late, hence I make an appeal to the august House not to get this draconian and repressive Bill passed in order to protect the country, protect the basic rights of people and in order to strengthen democracy and after withdrawing this Bill we should work to raise the respect of the country in the entire world.

*[English]*

MADAM DEPUTY CHAIRMAN: Hon. Members, I should announce that it is now almost quarter to Three of the Clock. I have got eight leaders to speak; and also 16 other Members to speak. So, it is up to you that if we want to finish the voting at 5.30 p.m., then we ourselves have to be careful. I do not have to tell you because you are all leaders.

Now, Shri H.D. Deve Gowda to speak.

SHRI H.D. DEVE GOWDA (Kanakpura): Madam, I thank you very much for having given me an opportunity to express my views on this controversial Bill.

In the morning, our hon. Home Minister, when he tried to Table this controversial Bill, mentioned that it is a unique event that our present Prime Minister has participated in all the three Joint Sittings; and, under his leadership, today this unique controversial Bill is going to be passed with a majority. You know the fate of the Bill.

Why has this controversy arisen? On 11th September, what happened in the USA? The whole country stood together when that happened. Are we not interested in fighting terrorism? Are we not interested in protecting our nation, the sovereignty of the nation? Are we not prepared to cooperate with the Government to defend this nation? This is a moot question. Patriotism is not the monopoly of the ruling party or its allies. We are equally concerned about the integrity of the nation, about the sovereignty of the nation, about the unity of the nation. Why is this controversy there? The controversy is there because the ruling party, in the last four years, has not demonstrated in its governance to show that it is impartial towards all religions and all communities as far as the administration is concerned.

Madam, as you have cautioned me about the time factor, I do not want to make an elaborate speech. Today, we are facing the problem of disunity and the suspicion among the minorities. The needle of suspicion is there because of the behaviour of the Government in the last four years. So, I have no option but to take some of events took place in the last five months.

[Shri H.D. Deve Gowda]

After Godhra incident, one of our senior colleagues, Shri George Fernandes, who is sitting here, had the opportunity to come to this House to participate in this unique controversial Bill. What had happened in the past during Emergency? How the TADA was misused? I am not going to elaborate on that. We reaped dividends for that. Can we expect the people, who are going to implement this Act, to be impartial? Are they free from the political interference? Those are the moot questions.

When the Indian Muslims and Christians faced the sufferings in the last four years, they have shown restraint. They have proved they are Indians. They belong to this nation. This nation is not the monopoly of any one community or any one religion. They have shown beyond anybody's doubt that they are equally responsible for the unity of the nation. When the 19 churches were demolished, was there any reaction by the Christian community in this country? Let me ask this question. When Bible was burnt, was there any reaction from the Christian community or other minorities?

If you want to fight cross-border terrorism, we have no objection. You have to take the entire country into confidence by your behaviour. Our hon. Home Minister went to Ajmer to offer the flowers in the *Dargah*. Does it mean that he has changed his attitude? I am sorry to say as to how things are moving in the country for the last four years. This is not to maintain the unity of our nation.

As a Member of Lok Sabha, if I try to discharge my duty in Parliament, a hon. Chief Minister of a particular State has remarked that one former Prime Minister is instigating the communal tension in Gujarat. Are you going to support this stand or the remark made by a Chief Minister of a State, George *Sahab*? You are senior to me. You might not have become the Prime Minister. You may become one in the future because you enjoy the vast majority and you try to bind your allies together. I have no objection. You are from a minority community. I try to participate in a debate in the Lok Sabha. If a Chief Minister of a State makes an uncharitable remark that a former Prime Minister is trying to instigate the communal tension in Gujarat, what will you do?

Madam, I do not want to hurt the feelings of NDA allies. Is it not going to encroach upon the privilege of the hon. Members of Parliament? Is the hon. Prime Minister or the Home Minister prepared to admonish the Chief Minister, who behaved in such a manner? I would like to know the mind of the hon. Prime Minister and the Home Minister.

Madam, the police officers say that they have not got a free hand to act. I do not want to consume the

time of this House by taking out the newspaper cuttings and quoting the same here. I would like to tell Shri George Fernandes that senior police officers, who are going to implement this law, are saying that they have no freedom. They said that they could have brought the situation under control, but they had no freedom to act on their own. So, can you expect this Act would be implemented by those people who are supposed to be encouraging terrorism? This is the controversy. The officers who tried to book some of those people belonging to the *Vishwa Hindu Parishad* or the *Bajrang Dal* have now been kicked like a football by the Chief Minister. What does it show? Why is the country divided on this very important legislation? Are we not interested in protecting the nation? Are we not prepared to demonstrate our unity? In the past, during the Chinese aggression or when Pakistan tried to create problems to our nation, the whole country, with one voice, demonstrated its unity. So, it is not a question of political conflict.

Madam, we have the Law Minister who has got his own legal excellence. Several legal experts and his own junior and senior colleagues in the legal field have differed with him on this Bill. There are serious doubts voiced by legal experts. I am not a legal expert, but there is a difference of opinion among legal experts. The Chairman of the National Human Rights Commission is one of the former Chief Justices of India. The entire Commission has passed a unanimous resolution rejecting this controversial Bill.

I would like to draw the attention of this House to a book published by the *Ram Janma Bhoomi Nyas*. For whose benefit has it been published? Is it to advocate *Hindutva*? What is *Hindutva*? What does the Hindu religion say? Do I not belong to the Hindu community? Should I have to take a certificate from the *Vishwa Hindu Parishad*? I might not have been born in a so-called upper caste. I know that we have been exploited for the last 5,000 years, but even then I am proud of my community. The essence of Hindu religion is tolerance. But is there any tolerance among these people? I would like to pose this question to the *Ram Janma Bhoomi Nyas* who have published this book wherein they tried to drag my name and my colleague Shri I.K. Gujaral.

It says:

"The two other vote bank politicians-cum-Prime Minister- I.K. Gujaral and H.D. Deve Gowda - did not bother to do anything except keep going to *Eids* or *Iftaar* parties."

Yes, I used to go to *Iftaar* parties. I used to go to *Darghas*. I used to go to *Gurudwaras*. I used to go to

Hindu temples. But remember that the historians will write: "During Deve Gowda's period, there was no communal clash in this country." I am proud to say that 'without any POTO'.

Without any type of these draconian laws, we conducted the election. In the past 10 years, no Prime Minister went to Jammu and Kashmir. As a Minister of Home Affairs, he might have got the file. If I say even a single word in exaggeration, tell the nation. I fixed up the programme. The people from the RAW and the Intelligence Bureau came and tried to advise me to postpone the programme. They said: "They have intercepted the conversation between the extremist groups. They are going to kill you. You should not go." That was the advice given by the Ministry of Home Affairs, the IB and the RAW Secretaries. All these people came to me. I postponed the programme once.

Then I fixed up the programme for the second time. The same situation was there. A dozen officers, including the same officers, came to me and tried to prevail upon me. I said: "No. I must go. If you all say that Jammu and Kashmir is an integral part of this country, the Prime Minister of this country is expected to go. If I fail to go because some conversation of extremists has been intercepted by our esteemed friends, then I am not worthy of a Prime Minister. I will go whatever may be the consequences". I visited four times. We conducted the election. We allowed persons from the international media to see whether the election was free and fair. They could observe it.

You want to say about this so-called *Ram Janmabhoomi Nyas*. Have they taken the entire Hindu community as their protectees? I would like to ask a question: "Am I not a Hindu? I too have got certain responsibilities as Member of Parliament and as worker of a political party. My party is not a large party. I do not care about that. But what I want to tell the nation is that I have no hesitation. Let the hon. Members realise my own position. I do not want to use unparliamentary language against anybody. The RSS Chief says in Bangalore:

"The era is going to begin. The era of those people, who are going to oppose *Hindutva*, is coming to an end."

What does it mean? I oppose what that means. There is no hesitation on my part. If we are going to be subjected to such threats, if our safety is in danger, if our life is in danger, then, we are prepared for the worst for the sake of unity of this nation.

15.00 hrs.

I am not going to be afraid of these threats. I have got the press cuttings in my hands of what the RSS Chief has said: "Judge Saheb, what happened to your family, what happened to you, the agony and what now you are doing I know, why you are doing all these things."

I am not going to blame him. To take revenge is a separate matter but the country's interest is paramount. The Congress has removed my Government, I am not bothered about that. The unity of the nation, the unity of the country, the harmony among all communities and all religions is of paramount importance to all of us, while fighting terrorism.

Terrorism, as has been stated by the hon. Prime Minister, is there for the last twenty years. The eyes of Mr. Bush were opened on 11th September when the terrorist problem was known to them. The Security Council had to pass a resolution after that. Before that they had not realised what the problem of terrorism was.

Today, we are in a minority. Yes. We know those people who are going to support a day will come and it is not far off that the political wheel will turn and they will regret. It is not far off. You cannot suppress the feelings of the nation. You cannot suppress the feelings of the entire population of 103 million people of this country. The days are not far off, whoever may rule this country, we are not bothered. What we want to say is that we want the harmony, the unity and oneness among all religions. This is all we want to have in this country.

I would like to conclude by saying that during 1961, when during one of the tallest leaders, Pandit Jawaharlal Nehru's time, the first Joint Sitting was held as has been stated by the hon. Home Minister. At that time, there was no party whip, there was no lobbying. He was such a tallest leader in this country. He had given a free hand to vote according to the conscience of the Members, if I am correct. Shri Chandra Shekhar may correct me because I was not in the national politics at that time.

In the last one week, after raising the issue of Godhra Asthi Yatra, what has happened? There was a commotion in the House. I was a witness and then how things moved in the last three-four days...*(Interruptions)*

*[Translation]*

SHRI VINAY KATIYAR: Hon'ble member is giving wrong statement. Last time also he had created tension in the Lok Sabha by giving wrong statement...*(Interruptions)*

[English]

SHRI H.D. DEVE GOWDA: I do not want to learn Hindu philosophy from him...(Interruptions) I do not want to learn his Hindu philosophy...(Interruptions) I have got firm belief and I go to temple...(Interruptions) We are not afraid of these things.

While opposing this Bill, as I have already said, I am proud of my community but at the same I am opposing tooth and nail the division of the country on the basis of religion and caste.

MADAM DEPUTY CHAIRMAN: Hon. Members, we are discussing something very important, which is going to affect the entire nation and the debate should be at that level. If there are so much of interruptions, I do not think it looks very nice because we are all being seen on the television not only in our country but also all over the world.

I know that you may not agree with what this side says and they may not agree with what you speak. But in the true spirit of democracy, there should be tolerance to listen to each other. And when you get a chance, you please reply. But the interruptions to the senior Members or the former Prime Minister or the Leader of Opposition or the Home Minister are not becoming of us.

...(Interruptions)

[Translation]

SHRI VINAY KATIYAR: How can we accept that such a responsible person is giving wrong statement....(Interruptions)

[English]

MADAM DEPUTY CHAIRMAN: Please sit down.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: You also please sit down.

[English]

Everybody has a right.

[Translation]

Everyone has a right to express his opinion freely and without any fear.

[English]

Everybody has a right to express his opinion freely and to speak without fear. And if you do not agree, do not agree but please do not interrupt.

Now, Shri Chandra Shekhar.

[Translation]

SHRI CHANDRA SHEKHAR (Ballia, U.P.): Madam, earlier I was in a dilemma whether I should speak or not on this issue. My colleague Shri Mulayam Singh Yadav gave a hint, but he did not take my name but I would like to make it clear that I had the opinion and even today I have the opinion that under the present circumstances, which the country is facing, such a law should be enacted which could be helpful in controlling the situation and that is why I was thinking not to oppose POTO Bill. But it is also necessary to keep in mind the attitudes and intentions of the people who want to implement POTO and that in what manner they would like to work under the present situation. I was very much depressed from the experience of last few days and that is why today I have risen to speak something on this issue. Because of the situation the country is facing today the difference of opinion among people is natural but it would be better if we try to maintain unity in the country by reconciling our differences.

Madam, people are fed up with cross border terrorism. From wherever terrorism starts, it is put into action inside the country. It is not good to blame another country if some outsider enters into our border and kills innocent people. Our Government should take this responsibility. We cannot ignore our responsibility by thrusting our indecisiveness on others. I feel that sometimes people cross the limit while opposing something for the sake of opposition, but I also feel that the people who are in power should have more patience and self-control. That is why today morning I had interrupted Minister of Home Affairs. I regret for that because my colleague who used to tell others that people are different and sometimes their role also differs and if we do not have any faith on their intentions then basically no democracy can function properly.

We have no doubts about BJP. Right from my student days I have opposed use of religion in politics. I consider it harmful for the country because it divides the society but in that also some people are such who can work better at the time of need. In 1975, Shri Mulayam Singhji was with me. Shri Advaniji and Shri Atal Bihari Vajpayee were also with me. At that time their role was different. After that when the Janata Party came to power, two

young persons came to my notice. They were Aruns—one was Shourie and other was Jaitley. We had great expectations from them today when we see them sometimes we doubt whether they are the same Arun Shourie and Arun Jaitley or someone else. This has not ended our confidence in them. But there are certain people who bow before the circumstances and change themselves accordingly.

Today many a people get very angry when George Fernandes's name come up but, whenever I see him, a sense of respect arises in my mind for him. I can never forget his past and do not lose hope about his future. But I would like to tell the Home Minister, Shri L.K. Advani that the way the discussion was held it was not a constructive approach. As someone has pointed out that in the beginning itself they gave a threat that a joint session would be convened over POTO and the Bill would be passed since the Government was sure of a numerical superiority in the joint sitting. But, they do not know that its implementation would need everyone's cooperation. If the Government lack even this much far sight then it is difficult to run the administration. The Government would need cooperation from the Chief Ministers of the States wherein they desire to implement it. The Government would require to keep those States with them.

At the outset, I have said that technically he may be right in saying that he did not take anybody's name. But if the Chief Minister had some personal talks with him then it is unbecoming of a Home Minister or the Prime Minister to disclose it in the House. I would like to reiterate that it creates a state of disintegration in the country. I would not like to repeat as to how POTO was introduced and how it has been misused in Gujarat. But Chief Minister's statement in the aftermath was disturbing whereas Shri Arun Jaitley promptly said that his statement has been misinterpreted. If such a statement is not denied then the people got to feel that he may have made such a statement. Under such circumstances, national integrity is at stake and people in the country will lose their confidence in the Government. Today, cross-border terrorism is not the only problem in the country. The problem is that the heart of the people is broken and their confidence is shattered. A poor citizen of this country feels that none is going to listen to him and a Dalit feels that he is not going to get justice. Minorities feel that they are unsafe. The Youth feel that in absence of any employment they have no future. This itself is a very grave problem and it would augur well if we pay more attention towards it. Terrorism cannot be ended with foreign aid. The Home Minister has said that terrorism has claimed 61 thousand people, perhaps he does not know that 25 thousands people were massacred only in Punjab. Many people were killed in naxalite movements,

during Naga movement in Nagaland and what happened in Manipur and Arunachal Pradesh? What is the condition in tribal areas these days? Right from Tripura to Tamil Nadu tribals are up in arms. What it would be called—terrorism or not? One of my friends has just said that he supports the Government. Well let him support it and let them run the Government but I would like to ask him in how many districts in same Andhra Pradesh officers do not dare to enter. Life in many areas is not safe. And this sort of terrorism is not trans-border terrorism, It is the indigenous one. Today, what is going on in Jharkhand and our newly created State of Chhattisgarh from Madhya Pradesh? People of both these States have drawn swords at one another. But it should not be the case in the Parliament, we should cooperate with each other and address national problems seriously cutting across political differences. I would urge the Home Minister to find out a solution even now so that we can present a good picture to the whole world. For a person like me, it will not be possible to support the Bill brought by the Government in this way, therefore, I shall be compelled to oppose it.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): Madam Deputy Chairman, under the provision of Article 108 of our constitution the Hon'ble President has convened a joint session of Parliament to discuss the nature of law relating to Prevention of Terrorism and its passing. It would have been better if the discussion, which began in the morning, was focussed on the shortcomings in POTO, if there was any, and the need for some changes in it. It would have been better if we had received some suggestions but the discussion was centered around some issues which had very less relation with POTO. Though the issues relating to the nature of Government in U.P., the efforts made to tackle Mandir-Masjid dispute in 1996 are important but these are not appropriate topics to be taken up in joint sitting. Main purpose of the joint sitting is to decide whether the country needs such an Act or not? When this Bill was defeated in Rajya Sabha, though it was passed in Lok Sabha, a prominent speaker from opposition parties said that they wanted to convey a message that the country is divided over this issue.

[English]

"We wanted to slow that the country was divided over this issue".

[Translation]

Hon'ble Mulayam Singh was explaining how America recovered after 11 September. An anti-terrorism law existed in America, yet they have introduced a new law



[Shri Chandra Shekhar]

now. To take whole country against terrorism...*(Interruptions)*

SHRI MULAYAM SINGH YADAV: The Minister of Law has made a mention of the law in America. We should not be in doubt about the law prevailing in America that would not be misused against people living in America. I want the Government to make it clear that POTO would not be used against Indians.

SHRI ARUN JAITLEY: I am very grateful to Shri Mulayam Singh Yadav for raising such an important issue. Examples of several other countries are quoted during discussion. I have the relevant laws of those countries and I can even send copies of those laws to him and I would reply to him this question during the debate. But, let us remember one thing—when America faced the challenge of terrorism, it was not discussed in America that some people were met with injustice on the basis of racism.

*[Translation]*

So not to speak of terrorist, the entire nation was united and when the Bill was brought to the senate, one vote was against it and the rest of the votes were in its favour and the entire nation stood in support of that legislation. Not a single person, a single newspaper or television channel in America said or displayed any thing that would discourage or disappoint the people at the time of crisis. When three thousand people were killed in the attack on World Trade Centre, the President of America made an announcement about which the Minister of Home Affairs was making a reference that

*[English]*

'A war has been launched on the United States of America'.

*[Translation]*

War has been declared against America so efforts were made to take the entire world into confidence. The people belonging to all political parties visited the congregations meant for paying tributes to the dead.

One day they were raising America's nation flag and the other day they held player meeting in its support. But in our country when the Bill is defeated in the Rajya Sabha, the Spokesperson of the party goes to the public to say that they wanted to show that the opinion of the country is divided over this issue. I refer this...*(Interruptions)*

*[English]*

SHRI PRIYA RANJAN DASMUNSI: Madam, I take strong exception to it...*(Interruptions)* The hon'ble Minister himself is dividing the country and the House...*(Interruptions)*

*[Translation]*

SHRI SURESH PACHOURI (Madhya Pradesh): The Bill that you have brought has become controversial. There is no consensus among people of the country on this Bill...*(Interruptions)*

SHRI ARUN JAITLEY: Madam, after 11 September incident the United Nations passed the resolution that every member country will enact a legislation in the respective country so that no citizen might directly or indirectly support terrorism or the citizen of other country may not get shelter in any other country. The law was already there in America even prior to this. The patriot Act was passed after this incident. Thereafter all the legislations were made. Not only there rather, in Britain the anti-terrorism legislation was enacted in 2000. In August 1991 such a legislation was also made in Pakistan. It is very unfortunate that a country which is the biggest sufferer of terrorism in the world needs to discuss whether such a legislation is required or not. The terminology that has been used,

*[English]*

I just wish to refer to what the hon'ble Leader of Opposition had to say:

"This law is insidious. This is politically motivated. It meets the narrow end. It is a manipulation of the parliamentary process."

I regret that these are the four phrases, which have been used. Let us make it very clear as to, which is the context in which this Law is being brought.

*[Translation]*

What is that petty political interest is political motivated and for that the Government intend to bring such a legislation. It is the first incident of terrorism in which 3000 persons were killed. The President of America said and the entire world has accepted that a war has been waged against the United States of America. 61 thousand people have been killed here during the last 15 years. I would like to remind the leader of opposition that 61,013 civilians have been killed in terrorist activities during the last 15 years. If one compares this fight with the casualties

in four wars that we have fought then one will find that while 5,468 persons were killed in these four wars 61 thousand persons have been killed in terrorist activities. 8,706 persons of military and para military forces have been killed. When 61 thousand and nine thousand, in this way 70 thousand persons have been killed, 6 lakh people have become shelterless and Rs. 45 thousand crore have been spent by the State and Central governments to counter terrorist activities then why charges are being levied against us that we want to enact the legislation due to vested political interests. If I...*(Interruptions)*

*[English]*

SHRI PRIYA RANJAN DASMUNSI: Why not before the Agra Summit? That is the doubt...*(Interruptions)*

SHRI ARUN JAITLEY: I wish to remind her that the only consideration why this law is being brought is to contain terrorism; is to punish the terrorists and no other reason at all. She had mentioned that this law is being brought only for politically-motivated reasons and she alleged that we have turned 180 degree.

I just wish to remind you, please seriously introspect whether the reason for this Bill is any political motivation or is your opposition to this Bill politically motivated...*(Interruptions)*

Let me now remind you, when you accused us of doing a 180 degree turn, when some Members, who are today in the Government, opposed the extension of TADA in 1989 and 1991...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Mr. Minister, will you please go via me?

SHRI ARUN JAITLEY: Absolutely, Madam.

Madam, Deputy-Chairman, when this charge is made that some Members of the Government in 1989 and 1991 had opposed the continuation of TADA because TADA was being misused, at that stage they might have had good reasons to do so because terrorism was predominantly in Punjab. But does the leader of the Opposition conveniently forget what her own party colleagues had to say at that time? When this opposition was made, her party colleagues who are still with her in Parliament, got up and very clearly said that this country needed an extraordinary law to deal with an extraordinary situation of terrorism. Terrorism, the then Home Minister said, cannot be fought with any kind of velvet gloves. Terrorism must be fought with an extraordinary legislation. And when asked how long this law will continue, he very

clearly said that this law would continue as long as terrorism is to continue. Today we are reminded of the fact that when a particular party was in power, and that party confesses that when they were in power in Gujarat and other States, they misused TADA and, therefore, no other Government in power must now try and legislate an anti-terrorism law, even though the universal experience today is that to punish the terrorists, you do require such a law.

*[Translation]*

Madam Deputy-Chairman one thing is being propagated. Time and again it is being propagated that TADA was misused against the minority communities...*(Interruptions)*. TADA was used or misused, but the party which was in power at that time and which had implemented TADA is now taking the pretext that it was misused against the minority communities by them. They are propagating this fact that the intention to oppose POTO but this propaganda is not helping them.

If Kashmir and Gujarat are left aside I am excluding Kashmir because Kashmir was in the grip of terrorism and those came from outside were arrested and in Gujarat 19000 farmers were nabbed. These two states should be excluded where TADA has been widely misused against minority communities. There are figures for the entire country. In terms of percentage misuse of TADA against minority communities was four and half percent.

*[English]*

Four-and-a-half percent was what TADA was used against the minorities.

*[Translation]*

However since the propaganda is politically motivated that is why they themselves are propagating that they misused anti terrorist law against minorities and thus fear will be created in the minds of minorities at about the anti-terrorist law. It has also been argued that it is politically motivated. I was asking that a legislation was enacted in Maharashtra...*(Interruptions)* The legislation in Maharashtra is being implemented by Congress Government. The provisions in the legislation of Maharashtra is more stringent than POTO in every respect. The Congress party is in power in Karnataka where legislation was made. The legislation enacted in Karnataka is also more stringent than POTO. In both these States the Congress Government is enforcing this legislation. There are provisions in those laws also that in certain circumstances the statement given to police may stand as witness and the provision of bail in those

[Shri Arun Jaitley]

legislation is very difficult. These legislation made against organised crime, local goons and gangs in the States are acceptable to them but if we enact a legislation against the Lashkar-e-Toiba and the Jaish-e-Mohamed then it will be declared as politically motivated....(Interruptions)

[English]

Madam, Deputy Chairman, the argument given is that you need a law in the States to fight domestic organised *Mafia*. But the moment you have the same law or even a lighter law against terrorist organisations, that law is going to be politically motivated. Madam Deputy Chairman, I would like, through you, urge upon the principal opposition Party that they have already taken a 180-degree turn. You brought in an anti-terrorist law; you told the country what was the logic required for an anti-terrorist law; you have brought the same legislation for the purposes of tackling organised crime in the States.

When your State Governments were consulted, without a single exception, each one of your State Governments said that India needs such a law. Each one of your State Governments said it and some of them suggested improvements in the Central legislation that we circulated to the States saying that there was no provision for intercept of communication. It was the Maharashtra Government that suggested to us that this law would be incomplete till such time that you have a provision for interceptions. We accepted that advice. After we have followed the advice, consulted the State Governments where your State Governments advised us, suddenly it is you who took a 180-degree turn and tell us that this law is not required as far as India is concerned. What does this law say?

[Translation]

After all what is there in this law? The discussion is not being held on the provisions of the legislation. Rather it is being discussed as to who is the supreme Prime Minister of this country. Who should form the Government in U.P.? How the communal incidents taking place in Gujarat could be controlled.

SHRI MULAYAM SINGH YADAV: The Members of your side have started passing comments....(Interruptions)

SHRI ARUN JAITLEY: There is not one type of terrorism in the country. Just now hon'ble Chandrashekhar was saying that there are different types of terrorism in the country. We experienced terrorism in Punjab for 10-12 years. In Kashmir there is cross-border terrorism. In north eastern States there is maoist-terrorism. We are

witnessing terrorist incidents in several States of the country. Terrorism is not only a threat to the security and integrity of the nation rather it can jeopardise the economic-environment and economy of the country and is a potential danger for them. I would like to quote Mr. Musharraf who want to encourage this terrorism especially the cross-border terrorism.

[English]

"Jihad is not terrorism. Mujahideen organisations are not terrorist organisations. Jihad had been revived during the Afghan war and it is now Jihad in Kashmir."...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: In the convention held at Bangalore, it was stated: "Muslims can stay within India if they can win the heart of the majority." What does it mean?... (Interruptions)

SHRI ARUN JAITLEY: Madam, I was only quoting somebody who has a desire to launch *Jehad* on India. I do not think that this should have really provoked anybody in the Opposition. Masood Azhar, the President of Jaish-e-Mohammad, says: "Our mission is just not Srinagar; we have to capture New Delhi." Osama bin Laden says: "Fighting *Jehad* against India is an Islamic duty of the world. Kashmir issue cannot be resolved by any means other than *Jehad*."...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: You created terror for Shri Rajdeep Sardesai and his colleagues...(Interruptions) They were asked: "If you are Muslim, you get out. If you are a Hindu, you can go further."...(Interruptions) The Law Minister and the Home Minister should explain this.

[Translation]

DR. VIJAY KUMAR MALHOTRA (South Delhi): Madam, please stop them. We have listened patiently to their leaders...(Interruptions)

[English]

MADAM DEPUTY CHAIRMAN: Just a minute please, I have requested everybody to have a debate at a level.

[Translation]

I request you, please do not interrupt each other, as the discussion is being held in a democratic way on an important issue. It is my constitutional duty to maintain the order. Therefore, you people, whether you belong to treasury benches or to opposition side should listen to the speeches. Please keep quiet for a minute. First listen

to the other member and then give reply. Everybody will get time to speak. If you behave in this way, it will not give good impression. If anybody do not like POTO, or it has any shortcoming, or anybody likes it very much, everyone should be allowed to express views. POTO will not change by causing interruptions. Therefore, it is better to do it by holding discussion. I have not said it in your praise...*(Interruptions)*

*[English]*

MADAM DEPUTY CHAIRMAN: No, I have not said in favour of or against anybody because I hear a lot of noise from this side also. So, please do not take it that way. It is for everybody. This is a very serious issue. It is best to discuss this issue in the serious atmosphere at the level of this Parliament, Joint-Session of both the Houses. It is a serious discussion; it is not just a Central Hall where we sit and eat food. So, please sit down.

...*(Interruptions)*

*[Translation]*

SHRI ARUN JAITLEY: Madam, I would like to quote two publications of 'SIMI'.

*[English]*

It says:

"The ideologies of democracies, secularism and nationalism have replaced the objects of worship of the past. It is our duty to demolish these ideologies and establish caliphate as enjoined upon us. Osama bin Laden is not a terrorisms and neither is Jammu and Kashmir an integral part of India."

*[Translation]*

Devegowda ji has given a suggestion to tackle this situation. According to him, terrorist should be tried under two old legislations like IPC and Cr. PC and Arms Act, as said by the Leader of Opposition.

It is very unfortunate, but this is the fact that many cases of serious crimes committed are ending in our courts under these laws. If we look into the shortcomings of our judicial process, it could be a new issue for debate. Only six and half per cent of the people convicted, get punishment under ordinary laws. The new process and new law and mechanism has been brought to combat terrorism. Law like POTO used against these organisations and Mafia in Maharashtra.

*[English]*

I am sure, the Congress Party is going to get its own time – Let me complete my speech.

*[Translation]*

SHRI SHIVRAJ V. PATIL (Latur): Madam Deputy Chairman, the example of Maharashtra is being cited here again and again. We did not interrupt them. I would like to tell you that 58 cases were filed in Maharashtra and punishment was in 75% of the cases. In other places 75,000 cases were filed, but it has to be noted that the percentage of punishment was low. The last thing...*(Interruptions)*. Let hon'ble Minister give me the reply...*(Interruptions)* If I am wrong, let hon'ble Minister give reply to it...*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (SHRI ASHOK PRADHAN): When hon'ble Member himself interrupt, then he do not face any inconvenience...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Listen, just now the hon'ble Minister has said that instead of taking up irrelevant issues he would concentrate on the suggestion for making changes in POTO. He is saying only that, he is not speaking against him...*(Interruptions)*

*[English]*

MADAM DEPUTY CHAIRMAN: Please sit down.

...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI: Madam, either Shri Patil should be allowed to speak, or we will also interrupt him....*(Interruptions)*

MADAM DEPUTY CHAIRMAN: I would not commit anything.

*[Translation]*

SHRI SHIVRAJ V. PATIL: Lastly, I would like to say that hon'ble Minister is having portfolio of law, and this debate is taking place from political point of view. Therefore, I would like to know from him, which provision of this legislation is different from TADA and with the help of which provision you can stop cross-border terrorism.

SHRI VINAY KATIYAR: Madam Deputy-Chairperson, you have not given me an opportunity to speak, but he

[Shri Vinay Katiyar]  
has been given the permission. Parliament is run by rules.  
Will you also give me permission to speak...*(Interruptions)*

*[English]*

MADAM DEPUTY CHAIRMAN: I will allow you. I would allow you to come here.

...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: I would permit you, if you ask for permission. I would allow you. If you get to ask for a clarification, I will permit you to come over here and speak, but I would definitely not permit anybody from this side or that side to just interrupt while the Law Minister or any other Member is speaking.

*[Translation]*

SHRI ARUN JAITLEY: I am grateful to Shri Shivraj ji for asking two clarifications about it.

MADAM DEPUTY CHAIRMAN: He is feeling obliged.

SHRI ARUN JAITLEY: The first fact is true, which is mentioned by hon'ble Devegowdaji that in trials under ordinary laws, the conviction rate is only 6.5 percent. More than 93 people are acquitted. The Member asked in regard to TADA, that why people were released? Though, less number of cases have been filed in Maharashtra under this law but how come the conviction rate is 77 percent and I would like to tell what is the difference. First, difference was this, and I would not like to repeat it. In Gujarat, if any political party arrests 19 thousand farmers due to political reasons, then all 19 thousand farmers would be convicted under TADA. Probably, nobody had expected this. TADA was misused by that kind of governance. It was widely discussed, and everybody accepts it. The main reason behind acquittal under TADA was this also.

Secondly, what is the difference between POTO and TADA? TADA was enacted in 1985. In 1985, the international terrorism had not so much affected the other countries of the world, but during last 17 years, many States and many countries of world have experienced how to tackle terrorism by law. It would be better, if I clearly present before you that what the present law says. The debate is held about its definition. Cite any one example of terrorist incident or activity, which does not come under its definition and cite any non-terrorist activity which comes under this legislation. Even the Supreme Court has given remarks about TADA's definition, there were discrepancies in its definition. What is the disruptive activity? Many people were held under that law in the

name of disruptive activity. It is not so in this law. Secondly, there is a clear provision under this law, which was not in TADA. The people who give any kind of financial assistance, funds to the terrorist, and all anti-terrorist legislations which have been enacted in the world during last 5-6 years have included the aspect of giving financial assistance for terrorism. It would also be termed as terrorist activity. It would also be crime. There cannot be two aspects. If anybody sent foreign exchange in Kashmir...*(Interruptions)*

*[English]*

I am not yielding.

MADAM DEPUTY CHAIRMAN: I am not permitting you. Please take your seat.

...*(Interruptions)*

SHRI ARUN JAITLEY: Madam, I am not yielding...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Hon. Member, I am not allowing you because the hon. Minister is not yielding.

...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Nothing is going on record.

...*(Interruptions)* \*

MADAM DEPUTY CHAIRMAN: Please take your seat. He has to finish his speech and then there are other hon. Members who have to speak. Please take your seat.

*[Translation]*

SHRI ARUN JAITLEY: Madam Deputy Chairman, if any person for helping terrorism provides financial assistance within India or from abroad then there is a very soft law in the country called 'FEMA' regarding Foreign exchange. It has been provided in POTO as to whether the persons who are being apprehended in Kashmir should only be penalised as per the provisions of FEMA or funding of terrorism should be considered as terrorist activity. The second provision made in POTO is that the Government will be entitled to confiscate any property made out of the proceeds of terrorism. When Congress was in power at the Centre, many such laws were enacted which provides that Government can seize money or property earned from smuggling. When it can

apply for smuggling then it is quite natural that this provision should be made in every anti-terrorist law.

[English]

Profits of terrorist crimes would be confiscated by the State.

[Translation]

It is repeatedly demanded here that the terrorist organisations should be banned. The provision of imposing ban on terrorist organisations was not there under TADA. It is for the first time that such a provision has been made in POTO. This provision was not there even in the first draft law which was framed by the Law Commission. We have seen the laws applicable in various countries of the world especially Britain and we felt that it is necessary to bring this law here also. Such criticism has been made that terrorists have no membership. Then how can it be possible to ascertain as to whether anyone is the member of that organisation or not. It has been clearly mentioned in this law that after imposition of ban, if any person is found involved in its activities, then he will be considered as its Member. Words like Organised Criminal Syndicate have been used here. If same argument is levelled as regards those laws which have been enacted in Maharashtra and Karnataka, Crime Syndicate has no Membership. People used to say that success rate is 77% there. Perhaps the same provision is there in this law also. If Shri Shivraj Patil pay attention towards this thing, he will find that the provision of intercepting the communication system and using it as an evidence was not there in TADA. This is the basic difference. If Maharashtra has the success rate of seventy seven percent then this is the main reason for that.

We are thankful to Shri Vilasraoji, who has given this suggestion that such provision is not there in draft POTO Bill and hence this provision should be included in it as it has been proved successful in Maharashtra. While referring the case of family Members of former Army Chief, who did not come forward to give witness, he said that today, the people are scared of giving witness against the terrorists thus paving way for their acquittal. The intercepting of communication will enable to track down terrorists and also be used as an evidence against them in a court of law. It is a matter of regret that this is the provision which has been criticised very much by the people. The provisions of bail that existed under TADA have not only been simplified instead it has also been laid down that this provision of bail will be applicable for one year only and thereafter general laws will apply.

[English]

The tight bail provisions will apply only for one year. Thereafter, the normal bail provisions will apply.

[Translation]

We have been repeatedly told that the bail provision in this Bill is draconian. The first question in this regard is that whether the suicide squad of terrorists will give respect to Indian law. This is not the situation. There is a least possibility that they will get bail and they will appeal before the court in the next hearing. Many people are raising this issue that they should get bail. I would like to tell that there is a special provision of bail for them which is applicable for one year. It is being said that this is a black and draconian law.

Madam Deputy Chairman, through you I would like to remind Congress Members that this is not the only such law but in 1974 when Congress was in power at the Centre, there was a provision of bail in the Narcotics Act and Amended E.C.A. Act. Besides, this provision of bail was also there in Danger and Damage of Civil Aviation Act, which was enacted in 1989. This provision is there in the laws of Maharashtra, Karnataka and Andhra Pradesh but we are being accused that we have brought this law due to political reasons. It should be decided between members of both the Houses as to whether we have brought this law due to political reasons or you are opposing it for political reasons. The Leader of Opposition has said that the confession made before a police officer will be treated as evidence.

[English]

Confessional statements made to the police are admissible evidence.

[Translation]

This is not the only law where such situation is prevailing. As regards the laws existing in Maharashtra and Karnataka, the leader of opposition has not said that it is politically motivated, but when we are enacting such law against terrorism we are being accused of bringing this law for political reasons. The purpose of this law is to identify and take action against the terrorist organisations for various conspiracies hatched by them which is very difficult for a common man to point out. In this regard I would say that none of us can reveal as to who was the mastermind behind the attack on Parliament? What was the relation of terrorists with Ghazi Baba. Such revelations can only be made by a Member of that organisation.

[Shri Arun Jaitley]

It is unfortunate that two of our former Prime Ministers have fallen victim to terrorism. When hon'ble Rajiv Gandhi was assassinated, only the LTTE cadres could have revealed and given evidence to pin point as to who was responsible for the conspiracy to assassinate hon'ble Rajiv Gandhi. No outsider could tell this thing as to which Members of LTTE used to decide in their meetings that who will provide funds, supply RDX and AK-47, therefore, to include such provision in anti-terrorist and anti-insurgency laws, means strengthening that law so that people could be saved. This kind of special provision has been made in the local laws of our country and it has proved successful.

Madam Deputy Chairman, it is being mentioned again and again as to with whom we have discussed this issue. The meeting of Leader of Opposition was also held, the Consultative Committee of Ministry of Home Affairs held two meetings and opinion of Chief Ministers of States were sought and most of the States supported it. When asked the Law Commission also supported it. The Human Rights Commission, which is a statutory body, has stated that there is no need for this law and hence it should not be enacted. There are no two opinion among those officers who have served in security Departments and who have experience of anti-insurgency operations about the type of law the country needs to combat terrorism. There could be two different political opinions. But there is no difference of opinion anywhere among security experts about the kind of anti-insurgency law to be required. It is true that Human Rights Commission has said, but I would also like to submit that it was also the apprehension that input could be misused.

Madam Deputy Chairman, I would like to present two issues in this regard. The question before Supreme Court was whether TADA can be misused, and whether the society is in need of such legislation. Supreme Court said—

[English]

"It is the duty of the courts to accept a construction which promotes the objects of the legislation and also prevents its possible abuse even though the mere possibility of abuse of a provision does not affect its constitutionality or construction. Abuse has to be checked by constant vigilance and monitoring of individual cases, and this can be done by screening cases by a suitable machinery at a high level. Persons aware of instances of abuse including the National Human Rights Commission can assist by reporting such instances with particulars to the machinery for prompt and effective cure.

However, that is no reason in law to doubt its constitutionality or to alter the proper construction when there is a felt need by Parliament for enacting such a law to cope with and prevent terrorist and disruptive activities threatening the unity and integrity of the country."

[Translation]

I was reading out of the Supreme Court's verdict, Kapilji must be recognising these words, probably, he was present during the hearing, and the argument given by the present Chairman of Human Rights Commission, Shri J.S. Varma, that there is a possibility of abuse in it, therefore, law should not be constructed, is irrelevant. I would like to read out a few sentences. Form the views expressed by Law Commission about the kind of law required.

[English]

"Is the existing law without a slightly more stringent law to deal with the special situation sufficient? Or should there ought to be some special provisions for dealing with this extraordinary situation?"

Now, the state in the country is such that this extraordinary situation really has not improved. If at all, it has worsened particularly in some areas..."

16.00 hrs.

"...Now, if the terrorist activities and militancy have to be controlled which are continuing and while this does not seem likely, in the near future, that it will get over, then should we not have a special law for that purpose? I will tell you straightway personally my own view - that is the personal opinion - that is, some special provisions are needed to deal with this extraordinary situation. I cannot be doubted that wherever there is a conflict of this kind, you have to choose between the available options, then public interest and society's interest have to be uppermost and that must prevail over individual interest; if it is not possible to preserve both, even in such a situation, care should be taken to ensure that the impact of individual interest is also minimal possible."

This is what the Chairman of the Human Rights Commission had to tell the Law Commission that the larger interest of the society, in a society affected by terrorism and insurgency must really prevail; and therefore, it must prevail where individual interests are involved.

[*Translation*]

Madam when it was repeatedly alleged that TADA was misused, and that the new law should not be misused, the Government was concerned about it. The Law Commission too was concerned about it. The Chairman of Human Rights Commission had instructed that efforts should be made to restrain its abuse. Review Committee is constituted not just to define it. It was repeatedly argued that only retired judge or sitting judge should be the Chairman of the Review Committee, and two special secretaries should also be there, therefore, this review committee is not appropriate. But in Maharashtra and Karnataka, no judge was appointed Chairman of Review Committee. Chief Secretary was its Chairman and two other secretaries were appointed as its Members...(*Interruptions*) If Amar Singhji objects, then...(*Interruptions*) you may be having the right, but probably people from your side are of the opinion that in Centre, if High Court judge is the Chairman, then the Review Committee is sham, but in Maharashtra or Karnataka, if Chief Secretary is the Chairman of the Committee, then both the laws are appropriate to tackle the situation—Review Committee about these two laws has been set up in every State. The Chief Secretary is its Chairman and two secretaries are its Members...(*Interruptions*) Madam, the Review Committee in Gujarat will be set up under the Union Law, High Court Judge will be its Chairman. If the law is misused, the High Court Judge will be the competent authority to stop it. The matter of concern was and it was but natural to be concerned that the statement given in Police Station, could be treated as statement and evidence in the court. It was considered so in the case of TADA. The safeguards suggested by Supreme Court and Law Commission have been taken in this regard. First safeguard is, that when a person confesses before the police, he should be produced before the judicial officer within 48 hours. The Judicial Officer will ask him, whether he has given this statement or not. And if that person says, this statement has been taken forcibly or by torturing him, then the Medical check-up of the person would be done. His lawyer should be present during the interrogation. He would be given the right to consult the lawyer. All safeguards told by the Supreme Court in Basu's case have been included in it. In the case of bail also...(*Interruptions*)

[*English*]

SHRI PRIYA RANJAN DASMUNSI: The entire nation is watching the telecast...(*Interruptions*) Will the Law Minister enlighten the House as to how many terrorists belonging either to the Lashkar-e-Toiba or Harkat-ul-Mujahedeen have been arrested so far?...(*Interruptions*)

[*Translation*]

SHRI ARUN JAITLEY: Madam, I would like to submit that...(*Interruptions*)

[*English*]

MADAM DEPUTY CHAIRMAN: As per the list that I have, Shri Kapil Sibal will be speaking after the Law Minister.

[*Translation*]

Jaitleyji, please conclude quickly.

...(*Interruptions*)

SHRI ARUN JAITLEY: Madam, this provision will be in force for one year even in the case of bail. This safeguard has been kept in it. It was not in laws. It was not in State laws, but it is in this law.

Shri Mulayam Singh wanted to know the situation in America. I have read many times that in America, there is a law, that American citizen cannot be detained for more than seven days. In America this law was in force earlier also, and after 11 September incident special law was enacted. In Britain, it was enacted last year, in Germany and France it was enacted...(*Interruptions*)

SHRI MULAYAM SINGH YADAV: The law over there is not for people living over there...(*Interruptions*)

SHRI ARUN JAITLEY: Madam, After United Nations resolution dated 28 September it has become mandatory for every members nation to make laws in this regard, even for Pakistan. Pakistan too amended the law it made in August. You should understand the situation of America. It is said over here that 11 September's attack...(*Interruptions*)

Madam as far as Shri Mulayam Singh's doubt is concerned, I would like to submit that it is assumed after 11 September's incident, figures have not been disclosed. I would like to tell that more than 1200 people have been apprehended. It includes foreigners, Jihadis and their own citizens also. It also include passport holders of that country. Nobody has been granted bail, nobody has been released. We are trying to know in which tribunals cases are going on under presidential decrees against them. These people interrupt in middle in order to make false propaganda that local citizens over there get involved in terrorism, or even if they are involved in attack on World Trade Centre, they will not be arrested...(*Interruptions*)



SHRI MULAYAM SINGH YADAV: Please give the exact figures, how many persons have been held in America...*(Interruptions)*

SHRI ARUN JAITLEY: I will let you know the figures after getting information from the Ministry of External Affairs. How is it possible that if the local citizen is involved in terrorism, action will not be taken against him...*(Interruptions)*

Madam, the history will decide who took the U turn in the struggle against terrorism. The history will decide, whether we want our country to divide or stand united in the struggle against terrorism. I am sure that general consensus would be formed in the joint sitting of both of the Houses, and joint decision would be that the country need this law.

*[English]*

MADAM DEPUTY CHAIRMAN: I gave your paper which you sent to me to the Law Minister. Whatever explanation you had asked for, I have passed it on to him. Now, I call upon, Shri Kapil Sibal.

...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Where is a gavel over here? I do not have one.

SHRI KAPIL SIBAL (Bihar): Madam Deputy Chairman...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Now, he has got the right to speak in whichever language he wants to speak. You cannot force anybody to speak in one language. He can speak in any language he likes.

*[Translation]*

He can speak in any Indian Language.

...*(Interruptions)*

*[English]*

SHRI KAPIL SIBAL: Madam Deputy Chairman, I consider it my good fortune to be standing before you today to participate in this historic debate in a Joint Sitting of both Houses of Parliament. But I also consider it my misfortune that I am participating in a debate that has sought to and will continue to seek to divide this nation.

I have great respect both for the Home Minister and my good friend, Shri Jaitley and I was a little puzzled

when Shri Jaitley talked about 11th September and referred to the manner in which the people of the United States stood united behind the President of the United States. Let me remind him that on December 13, when the attack took place on Parliament, all political parties stood united against the terrorism. I only want to ask my learned friend one question. In the United States, do we have a Governor of any State who quotes the Newton's third law of motion? In the United States, do you have the likes of Shri Narendra Modi?...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Please sit down.

*[Translation]*

Gautam ji, what are you doing. Please sit down.

*[English]*

Everybody should sit down.

SHRI KAPIL SIBAL: In the United States, have we had, in the recent past, evidence of State-sponsored terrorism? In the United States, have we had a Godhra and the killings after Godhra?...*(Interruptions)*

*[Translation]*

MADAM DEPUTY CHAIRMAN: Everyone is going to America now. Let him go, too.

...*(Interruptions)*

*[English]*

MADAM DEPUTY CHAIRMAN: Everyone referred to the United States. He is also referring to it now. Please sit down.

...*(Interruptions)*

*[Translation]*

MADAM DEPUTY CHAIRMAN: Sarojji, you too, please sit down, you don't need microphone but I need it.

*[English]*

and still you do not hear.

SHRI KAPIL SIBAL: Shri Jaitley, one last question. In the United States did we ever have a macabre by choreographed dance of terror of mayhem, arson and loot that made blood-thirsty animals of otherwise decent human beings?...*(Interruptions)*

[*Translation*]

MADAM DEPUTY CHAIRMAN: Please sit down. Please take your seat. Let him speak.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please sit down.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: Listen to him first and then I will permit you.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I cannot hear you, please sit down. The question was put to the Law Minister and I think the Law Minister is competent enough to answer it. So, let him answer the question. Why should everyone of you become the Law Minister? Everyone is becoming a Minister. He is questioning the Law Minister. If the Law Minister wants to answer, I will permit him. But why everybody wants to do the mantle of the Law Minister without taking the oath as such? Please sit down.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I have not allowed you. I will allow you if you ask for my permission.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: Okay. But, let him speak first.

[*Translation*]

SHRI KAPIL SIBAL: Why are you getting so excited...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please sit down for a while.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: He is yet to begin his speech.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: You address me.

...(Interruptions)

[*English*]

MADAM DEPUTY CHAIRMAN: Let him have the clarification. Law is equal to everybody at least as far as I am concerned.

...(Interruptions)

SHRI KIRTI JHA AZAD (*Darbhanga*): I would like to seek a clarification. You have permitted me to seek a clarification. They cannot take away my right...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please sit down. I had allowed Shri Shivraj Patil. I allowed two people. Now please sit down. You were not in the House when I allowed Shri Shivraj Patil. I allowed Shri Mulayam Singh Yadav also. Justification demands that he should also be allowed.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I am doing my constitutional duty. I am neither on this side nor that side. I have allowed two people from this side; so one person will be allowed from that side also. Shri Azad, are you sure that want to seek a clarification?

SHRI KIRTI JHA AZAD: Yes, Madam...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please sit down. I cannot hear you. Let me handle it.

...(Interruptions)

[*Translation*]

MADAM DEPUTY CHAIRMAN: Please sit down. Let me hear. Please sit down.

...(Interruptions)

[*English*]

MADAM DEPUTY CHAIRMAN: I allowed Shri Shivraj Patil.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: Madam, I have the right to ask as to how he is there to speak. Under what capacity he is allowed to speak? I would like to know on this point...(Interruptions)

SHRI KIRTI JHA AZAD: Madam, how can he mislead the House like this? I just want a clarification from him. After all, I am also a Member of Parliament and I am entitled to ask him a clarification. You have permitted me to speak. They have no right to infringe upon my right as you have given me permission...(Interruptions) He is misleading the House at the very beginning itself. So, why should I not be allowed to speak?...(Interruptions)

MADAM DEPUTY CHAIRMAN: Let him at least start his speech.

...(Interruptions)

SHRI KIRTI JHA AZAD: At the very beginning of his speech, he has misled the House by giving wrong information. I want a clarification on that point. That is it...(Interruptions)

MADAM DEPUTY CHAIRMAN: If you all speak like this, I cannot preside. I will not preside, if you do not allow me to speak.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please your seats. Let my voice be heard.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: You may speak if he yields. Shri Kapil Sibal, are you yielding?

SHRI KAPIL SIBAL: No.

MADAM DEPUTY CHAIRMAN: Shri Azad, he is not yielding. Please go back to your seat.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: He has agreed to back to his seat. Shri Azad, I promise that I will allow you afterwards and not now. Let him finish his speech.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I would have permitted if Shri Kapil Sibal had yielded. He is not yielding. I will allow you later on. Please go back to your seat.

...(Interruptions)

SHRI KIRTI JHA AZAD: Madam, on your promise, I am going back and not on their protesting...(Interruptions)

MADAM DEPUTY CHAIRMAN: Now, will you take your seats?

...(Interruptions)

[Translation]

MADAM DEPUTY CHAIRMAN: Please sit down. Please sit down quietly. Sit down.

...(Interruptions)

[English]

MADAM DEPUTY CHAIRMAN: Please sit down. I cannot shout like you even with two mikes. Please sit down.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: Please sit down.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I will permit.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I will permit him, not now.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: There is some kind of a rule. I am telling you. Just one minute. I know the rules very well. Please sit down. Take your seats. Cool down. I will permit him. Please sit down. I will permit him. Please sit down.

[Translation]

Please sit down. How can you hear me, if 700 persons start speak simultaneously.

...(Interruptions)

[English]

MADAM DEPUTY CHAIRMAN: I will permit him. Only when the Law Minister yielded, did I allow the Deputy-Leader of the Opposition, Lok Sabha, to speak. Let Shri Kapil Sibal yield, I will permit him. I did not allow Shri Deve Gowda to speak. He wrote it down and I gave it to the Law Minister. Please take your seats.

...(Interruptions)

MADAM DEPUTY CHAIRMAN: I will permit him later. Please sit down.

[*Translation*]

Please let the speech continue.

...(*Interruptions*)

[*English*]

SHRI KIRTI JHA AZAD: Madam, I am sitting down only because of you, and not because of them...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: Thank you very much. I am very obliged to you. Please sit down.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: All right. I will give you time.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: I will give you time. Let him speak.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: Cool down.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: Now no interruptions please. Let us hear Shri Kapil Sibal. I did not allow anybody to interrupt the Law Minister. Only when he yielded, I allowed. If he yields, I will allow him now. Since he is not yielding, I will allow him later on. I promise that I will allow you later on, but not now and not immediately.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: Let Shri Kapil Sibal speak.

...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: You are eating up the time of Shri Kapil Sibal. Please do not do that.

...(*Interruptions*)

SHRI KAPIL SIBAL: Madam, Deputy-Chairman, there really was no need for us to have this special sitting of both the Houses, if the Government had looked at the matter with some objectivity. The speeches made in this

House today are evidence of the fact that not only is the polity of the country divided on this issue, but the people of this country are also divided on this issue...(*Interruptions*) Time and again, on several occasions, we beseeched this Government, we requested this Government to send the matter to a Joint Parliamentary Committee.

When the matter was moved in the Council of States, I moved an amendment for matter to be referred to a House Committee. But the Government did not yield because the Government really was not interested in negotiations...(*Interruptions*)

MADAM DEPUTY CHAIRMAN: Please listen to him. If you do not listen to him, how are you going to answer him if your chance comes? So, you better listen to him peacefully.

...(*Interruptions*)

[*Translation*]

MADAM DEPUTY CHAIRMAN: You will be able to answer only if you listen. How could you answer if you don't listen to the questions?

[*English*]

SHRI KAPIL SIBAL: There is still time. The Government can even today decide to have the matter referred to a Committee so that all points of view can be taken care of, and, if necessary, a law of this nature may be passed or the existing provisions may be amended...(*Interruptions*) That has been our position. That continues to be our position. In fact, I do believe that this is the time to heal and bring together, not to stigmatise, to move forward through dialogue and consensus, not move backward in time and civilised conduct to push through such a legislation as the one that we have selected to discuss today. It is ironic that those who swear by POTO also swear by democracy. The manner in which POTO is being pushed through with the iron fist of a brutal and brutalised majority is contemptuous, undemocratic, in disregard of the feelings, fears and insecurities of millions of our citizens.

[*Translation*]

You want to know the reasons of our opposition to the Bill and I will answer it. I will not talk on political matters...(*Interruptions*) If you won't listen to me, the country will think that you don't listen to other's view points. If you want that, I will just sit down and you can get the Bill passed. If you want that, I will not take part in debate.

[Shri Kapil Sibal]

If you don't want to listen, just tell me. Just let me know...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: Democracy means expression of a number of view-points, ideologies and ways. You are not setting a good example by not listening to others. Let him speak. You can speak when your turn comes. We have just started. Please sit down. I don't want to hear any sound now.

...*(Interruptions)*

[English]

MADAM DEPUTY CHAIRMAN: I will be highly obliged to you if you listen peacefully.

SHRI KAPIL SIBAL: Madam, on the 20th of July, 1999, the Law Commission wrote to the Human Rights Commission to find out the state of the police and how it is exercising its powers under the ordinary laws of this country. I refer to Report Number 177 of the Sixteenth Law Commission. They looked at several States and the way the Police conducts itself in several States in this country. They chose particular districts. Some startling data - which perhaps is to the knowledge of the Government, now that I got it from the web-site of the Law Commission - has come to light. When I place that data before you, you will then realise the reason for our opposition to POTO. This is not a political issue but it affects the basic structure of our polity. Let me place those facts before you.

The Human Rights Commission set up a Committee. In the State of Uttar Pradesh, this is what is found. What was found was that the total number of persons arrested, surrendered is around three lakh; the number of persons arrested under preventive provision of law is as high as 4,79,404. Obviously, preventive provisions mean provisions like Sections 151, 107, 111 of the Cr Pc and similar provisions in local enactments.

Another disturbing feature is the percentage of arrests made in relation to bailable offences. It is as high as 45 per cent. What does that show you? That shows you the conduct of a police officer, who is liable, who is obliged under the law to grant a bail in respect of a bailable offence. In the State of Uttar Pradesh, 50 per cent of the people are arrested despite the offences being bailable. I now go to the State of Maharashtra. I am not excluding the Congress-ruled States. This is the Report of 1999-2000. In Maharashtra, the situation is like this. This is what the Law Commission states. "Then again, the arrest made in relation to bailable offences is something un-understandable. it is 72 per cent and 67 per cent respectively in the State of Maharashtra."

Then, comes the State of Gujarat. It is said:

"The Committee is of the view that more and more powers are being given to the Police under various social and economic laws including the power of arrest. This should also be reviewed in the light of increasing allegations of misuse of power by the law enforcement agencies...."

This is the same Law Commission which has made a draft proposal on POTO. It is the same Law Commission which is saying that the increasing allegations of misuse of power by the law enforcement agencies should result in curbing the power of police officers. What are we doing under POTO? We are giving them such drastic powers which the Police under ordinary law misuses in a rampant manner. What will they do under POTO?...*(Interruptions)*

I am talking of the ordinary law. If under the ordinary law, this is the state of enforcement agencies of this country, we can imagine what will be the position if drastic powers are given to Police officers under POTO? What will happen to the ordinary citizens of this country? That is the question before all of you today.

In the State of Karnataka, the arrests in bailable offences are as high as 84.8 per cent. I can go on from State to State. But ultimately, this is what the Law Commission says and the broad features disclosed through this data are:

"The percentage of arrests in bailable offences is unusually large, ranging from 30 per cent to more than 80 per cent. The said material fully bears out the statement in the Third Report of the National Police Commission to the fact that the arrests made 60 per cent were either unnecessary or unjustified and that just unjustified Police action accounted for 43.2 per cent of the expenditure in jails."

[Translation]

SHRI VINAY KATIYAR: At that time Congress Party was in Power and you are opposing your own party...*(Interruptions)*

[English]

SHRI KAPIL SIBAL: The Law Commission further says:

"Those are 20-year-old figures. The position cannot be better if not worse."

I am very intrigued to hear my good friend, Shri Jaitley to talk about the 180-degree turn that the Congress

Party is supposed to have made. Let me remind my good friend and hon. Members of the Treasury Benches what some of them said as far back as 1989 when TADA was brought for extension. I quote Shri Yashwant Sinha.

[Translation]

Shri Sinha, on 11th May, 1989, you had said on the issue of extending TADA for two years:

[English]

May I remind you? You said:

"I would like to go on record for posterity that if ever there was an Act which was a blot on the fair name of democracy, it is this. By this Act we have destroyed completely perhaps for all times to come what is known as the rule of law."

It is the TADA. Now, of course, you must be upholding the rule of law. You further said:

"If the Rowlatt Act was not fit for human beings, I wonder how TADA is fit for human beings. What would be a greater shame than that, what would be a greater blot on the name of democracy? I did not compare Rowlatt Act with this TADA, I said it is much worse than the Rowlatt Act."

[Translation]

SHRI NARENDRA MOHAN (Uttar Pradesh): We don't want to hear about TADA. Speak on POTO.

[English]

SHRI KAPIL SIBAL: That is what he had said.

What had Shri Jaswant Singh said? He said:

"I find this piece of legislation runs counter to every concept of civilised values."

[Translation]

I don't want to comment upon the civilised values you hold.

[English]

I would like to now ask the Treasury Benches why the 180-degree turn. Why are you suddenly so enamoured of POTO when you said that this was a law which

opposed every concept of civilised values? You must explain to the people of this country.

Madam, Shri George Fernandes is sitting here and he is supporting this Bill. What did he say 11 years ago? Let me quote what he said on the 12th August, 1991. He said:

"It has now been proved that such a law cannot abolish any kind of violence or terrorism."

So, it could not abolish it in 1991, but will it abolish in 2002?

[Translation]

After 11 years, what has happened now that it will be abolished now.

[English]

MADAM DEPUTY CHAIRMAN: He has a right to speak what he wants to speak. He is not going to speak what you want him to speak.

...(Interruptions)

SHRI KAPIL SIBAL: When the TADA Amendment Bill of 1991 was moved, who were the ones who voted against it? Shri L.K. Advani, now the Home Minister, voted against it. Now, suddenly after 10 years, why does he support it. We will have to find out from him. He says, he supports it because there is a United Nations Security Council Resolution 1373 adopted on the 28th September, 2001, which required the international community to pass the law and therefore India had to enact a law. We do not oppose that. Let that law be enacted. But did the international community tell you to enact this law, which contrary to all civilised values of a democratic society?

[Translation]

Now it is necessary to put before you some facts.

[English]

When POTO was promulgated on 24th October, 2001, the first casualty of POTO in Kashmir was a gentleman by the name Shri Dar. Shri Dar had a tenant in his house who was paying him a rental of Rs. 300 a month and who told him that he was a photographer from Delhi. That tenant turned out to be, according to the prosecution, according to those who arrested him, a terrorist. So, Shri Dar was taken into custody under the

[Shri Kapil Sibal]

provisions of POTO. On what ground was he taken into custody? It was on the ground that his tenant, who said that he was a photographer in Delhi, happened to be a terrorist. So, Shri Dar became a terrorist because he assisted and supported terrorism. This is how terrorism and POTO actually works at the ground level.

Let us come to Gujarat now because the proof of the pudding is in the eating. What happened in Gujarat?...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: The Deputy Speaker announced in the morning that we are going to have voting at 5.30 p.m., but I do not think we can have voting at 5.30 p.m. now. I have two lists of speakers with me. If the discussion is not allowed, we will have to sit till 5.00 a.m. in the morning. So, please let everybody speak. Please quietly listen to everyone and abide by time.

SHRI KAPIL SIBAL: My good friend, Shri Jaitley, remarked that the Leader of the Opposition has said that this law is insidious, politically-motivated and a manipulation of the parliamentary process.

Now, I want to show to him how this law is insidious, how it is politically motivated and how it is a manipulation of the parliamentary process. The facts will be before him in a second. In Gujarat, what has happened? In Gujarat, after the Godhra massacre, 62 persons were arrested and 21 of them were proceeded AGAINST under POTO. For the atrocities, that were committed after Godhra, about 800 persons were arrested. Not a single person was proceeded AGAINST under POTO.

Why they were not proceeded AGAINST is another matter. But I want to place before this country what really happened I give you an example. I give you an example. An FIR was lodged by one V.K. Solanki, a Sub-Inspector of the Naroda Police Station, who named five VHP and Bajrang Dal leaders for the Naroda-Patia massacre. Among them is a Bajrang Dal activist, Babu Bajrangi, who has a long criminal record. Three persons have, so far, been arrested. But those named in the FIR are still at large...*(Interruptions)* Now, please let me place the facts...*(Interruptions)* An ordinary person or Congress workers did not lodge this FIR. A Sub-Inspector of Police lodged this FIR. Now, the Assistant Commissioner of Police, Shri Barot - I name him - who was in the charge of the investigation, questioned the action of the local Police. I quote what he has said....*(Interruptions)* This is no way...*(Interruptions)* This is not fair...*(Interruptions)*

MADAM DEPUTY CHAIRMAN: There are so many people.

SHRI KAPIL SIBAL: The Assistant Commissioner of Police says:

"Before arresting Bajrangi and others named in the FIR, we have to be sure of their involvement."

The Deputy Superintendent indicts them in the FIR. The ACP says: "I am not sure of their involvement." This is the state of affairs in Gujarat...*(Interruptions)* Forget POTO. This is the way the State is using the Police personnel in protecting those who are covered by the present definition of POTO. The Minister of Law says: "The POTO is to contain terrorism." No; the object is "to perpetuate State terrorism". That is the object.

In the course of the mayhem that took place in Gujarat, may I just give the figures? More persons died in Gujarat than in the Kargil conflict. More persons were massacred in Gujarat than the loss of lives in the Kargil conflict.

About 1,679 houses were set on fire, 76 religious places were burnt, 1,965 shops were burnt, 200 shops were looted, 90 vehicles were torched and yet none of those responsible have, till date, been arrested under POTO.

Now, comes the icing on the cake, so to say. Now, it is found that the Gujarat Government says - it is very surprising - that they will not prosecute any of the people who are responsible for the Godhra massacre under POTO because there is an opinion of the Advocate-General to the effect. Well, let us assume, there is an opinion of the Advocate-General. The people of this country should know that this is merely a tactical move for the simple reason that at any stage of the investigation, the offence under POTO can be added. They are only waiting for this debate to be over, for POTO to be passed and then directing that very investigating agency to include the offence of POTO which they have tactically withdrawn for the moment. That is their real motive. That is the political motive, Mr. Law Minister, that I was talking about.

What is even more interesting is that it was found that seven persons who were booked under POTO were young boys going to school. I will quote a person who arrested these young boys and this is what he said: "The Inspector of Godhra Town Police Station, Trivedi says, it was not possible to check their age at the time of arrest, they were seen near the site of the incident, so they were arrested under POTO." The reason given is they were arrested under POTO because they were seen at the site of the incident. Is this not insidious, Mr. Law Minister? Is this not politically-motivated, Mr. Law

Minister? Is this not a manipulation of the parliamentary process that while POTO is law, you do not take any action for those who massacred people and who burnt people alive? Please answer, I would like the hon. Home Minister to answer that.

What further has happened is that all those officers, who tried to enforce the law have now been transferred. I can give you the names of officers. Some of those officers have said, in fact, one Shri Rahul Sharma, who was incharge of Bhavnagar, said: that Mr. Govardhan, the Home Minister told him on the phone, please book these people under safe IPC clauses. What does that mean? You say: "This law is only to deal with and contain terrorism." But if you want to contain terrorism, why do your Ministers in Gujarat tell Inspectors and Sub-Inspectors to book certain revised under safe IPC clauses? Is that how you want to deal with terrorism?

The other thing which is most interesting is that Shri Jaitley has given us some very interesting figures. He says: "61,000 people lost their lives because of terrorism in this country." He says, "8000 security people lost their lives."

This is true. Sixty thousand people lost their lives in the last 20 years when TADA was in force. But, after the October 24, 2001, POTO has been in force. Let me tell the Home Minister some interesting figures when POTO was in force. I will talk about Kashmir. On January 1, 2002 a woman, two children and six of her family were massacred alive in Jammu & Kashmir. POTO was in force. On January 7, 2002, it was a night of terror. Seventeen persons were massacred in Jammu & Kashmir. POTO was in force. On January 11, 2002 there was a blast in the Jammu & Kashmir High Court. Fifteen persons were killed. POTO was in force. On January 31, 2002, five children were killed. POTO was in force. I can go on and on and on.

You want to tell us that because of POTO, you will be able to catch hold of a suicide bomber. Will you be able to do away with terrorism because of POTO? The answer is, 'no'. The real purpose of POTO is to use this draconian piece of legislation against your own citizen. That is the real purpose of POTO. That is why, this law is insidious. That is why, we will not accept it.

Now, Shri Jaitley, let us come to some substantive provisions of the law, to which we have grave objection. My learned friend, the Law Minister has been saying time and again that the Congress Party has never told them what their real objection to the substantive provisions of the law is.

Objection number one is about the definition of a terrorist act under POTO in comparison to the definition of a terrorist act under TADA. I will read the definition under TADA and then I will read the definition under POTO. Under TADA, this is what the definition was:

"Whoever with intent to overawe the Government, as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people uses weapons and arms, commits a terrorist act."

What you have done in POTO is that you have excluded two very important clauses of the definition of a terrorist act. This is what you have excluded:

"Or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people."

This part of the definition has been selectively excluded by this Government in the definition of a terrorist act under POTO. We will not accept this. Do you have any answer as to why you have excluded it? The answer is what is happening in Gujarat. The answer is, if this definition was there, then the activities of *Sangh Pariwar* in Gujarat, of VHP and the Bajrang Dal in Gujarat would be squarely covered under the definition of a terrorist act under POTO, and you would be obliged to arrest them under POTO.

My second substantive objection in this. Please note it. This law says that as long as you are a member of a terrorist organisation, you are deemed to be a terrorist. Shri Jaitley has said that the accused can always tell us that after the organisation became a terrorist organisation, he was not a member of that organisation, he did not do any activities for that organisation. That is true, Shri Jaitley. But the fact of the matter is when will the poor accused have to say that. The poor accused will have to say that only in his defence. There is no obligation under the law for the prosecution to prove that he is a member of a terrorist gang because under the definition, as long as the prosecution says he is a member, these deemed to be a terrorist. We will not accept that.

The next objection is this. Madam Chairperson, when POTO was first promulgated on October 24, there was a Schedule to Section 18, which included only SIMI as an organisation, which would be deemed to be a terrorist organisation. There was a great hue and cry in this country and reason was simple because organisations which had their objective as terrorism were excluded from the Schedule. I will name two such organisations, and



[Shri Kapil Sibal]

that is, the Communist Party of India (Marxist-Leninist) called the People's War Group, and the Maoist Communist Centre, MCC.

17.00 hrs.

These two organisations which profess to be terrorist organizations were excluded. Why? What is the answer of the Home Minister? If the intention was to fight terrorism, if the intention was to curb terrorist activity, then on 24th of October when the Schedule was enacted, these two organizations should have been included. But they were not included. Your eye was on the UP election. You knew that the UP election was coming. You wanted to make this into a political issue. But then Shri Chandrababu Naidu, the Chief Minister of Andhra Pradesh, at the end of October and November asked why you have not included the People's War Group. So, on 5th December, 2001, you amended the Schedule and included the People's War Group and the MCC but one organization is still not included. Which is the organization? It is the NSCN (IM) which professes to be a terrorist organization. Why is it not included? It is because your Home Minister is holding parleys with that organization. This also shows that when POTO was enacted, you had a specific purpose in mind.

Then, let me come to my fourth substantive objection. Unauthorised possession of arms in an offence under the POTO. Under TADA this provision was incorporated in Section 5. Many people who had revolvers for which the licences have expired, continued to be in possession of those revolvers. And under the TADA, they were deemed to be terrorists because they were in possession of unauthorised arms. You have a similar provision now under this Act. So a person will be deemed to be a terrorist if he has a revolver or a gun for which the license has expired. How can any civilised society accept provisions of this nature? Please do explain that to us.

17.04 hrs.

[SHRI K. YERRANNAIDU *in the Chair*]

My next objection is this. You have a witness protection programme. You talked about the US law, the UK law and many other laws. Let me tell you this.

"In the United States Constitution, the due process of law in all criminal proceedings, the presumption of innocence, the right of the defendant to an open and speedy trial and the rights of the defendant to confront witnesses against him are neither suspended nor circumscribed by that law."

Please note that, in the United States, the presumption of innocence is not dislocated. But under POTO, it is dislocated. There is no witness protection programme in the United States as under POTO. There is no suspension of the fundamental rights of the individual in the US or under POTO. So, please do not compare the US law with the Indian law. You made a song and dance about the US law when Shri Mulayam Singh asked you a question.

[*Translation*]

What did Mulayam Singh ji ask? He asked whether the US law can be enforced against aliens? You replied that law is enforced against both the citizens and the aliens. You were correct.

[*English*]

The issue was not that. The issue is that there can be no preventive detention of citizens of the United States.

Under POTO, you could have preventive detection for 180 days before the chargesheet is filed. Under the American law, you cannot have such detention. Under the American law, you do have the normal bail provisions. Under this law, the bail provisions are drastic. So, please do not compare the American law with the Indian law.

Let me give you another example of the UK law. Under the UK law, for example, if a person is arrested up to five days preventively through an order of the Home Minister, the European convention of Human Rights has held that such a provision is unconstitutional even for aliens. In other words, under POTO, we treat our citizens much worse than the US and the UK laws treat their aliens. This is our objection and you have not answered it. We raised this objection not once but several times during the course of the debate you have not dealt with this....(*Interruptions*)

MR. CHAIRMAN: Please conclude now.

SHRI KAPIL SIBAL: I was interrupted for a long time. I will have to answer some of the questions that have been raised....(*Interruptions*)

Let me now deal with the issue of MACOCA. Much has been made about the rate of conviction under MACOCA. The hon. Law Minister said that under TADA and under other laws of this country, the rate of conviction was 6.5 per cent but under MACOCA the rate of conviction was 76 per cent and this showed the MACOCA is efficacious. I do not know whether it is a legal argument or not but you can have a law in this country where the

rate of conviction could also be 100 per cent. But will that show that that law is good or that law is efficacious? Why is it that you have a rate of conviction of 76 per cent? It is because the normal investigating agencies do not investigate the cases normally. What they do is to extract a confession. That confession becomes substantive evidence; that substantive evidence is made the basis of conviction; and so that the rate of conviction would be high. But such a procedure is not recognised under civilized jurisprudence. Do we have such confessions in the United States? Do we have such confessions in the UK? The answer is 'No'. So, the issue is not whether the rate of conviction is 76 per cent or 6.5 per cent. The issue is, in a civil society, will you adopt such procedures that tend to incriminate innocent persons who cannot fight against the State? This is what happens here.

Under MACOCA, you have the definition of organised crime? The definition of organised crime has nothing to do with the definition of terrorism. These are two different concepts. Let me read out the definition of organised crime under MACOCA...*(Interruptions)*

'Organised crime', under MACOCA means, 'any continuing unlawful activity by an individual'. Before anything becomes an organised crime, the prosecution has to show continuing unlawful activity, which is also defined under the Act but there is no such definition under POTO because you do not have to do any continuing unlawful activity if you have to be a terrorist. If you are a member of a terrorist gang, as the prosecution says, you are a terrorist. You do not have to be involved in any continuing illegal activity. So, please do not fool the country. Please do not talk about organised crime under MACOCA and compare it with terrorism under POTO. Under MACOCA you have organised gangs that are not defined like terrorist organisations. So, please do not compare apples with potatoes. That is exactly what you did.

MR. CHAIRMAN: Please try to conclude now.

SHRI KAPIL SIBAL: Let me just answer the question on confessions.

MR. CHAIRMAN: There are two more hon. Members from your party who want to speak. Please try to conclude in one more minute.

SHRI KAPIL SIBAL: Let me mention what the National Human Rights Commission says about confessions. This is what it says:

"This would increase the possibility of coercion and torture in securing confessions and thus be

inconsistent with Article 43(f) of the International Covenant of Civil and Political Rights, which requires that everyone shall be entitled to the guarantee of not being compelled to testify against himself or to confess guilt."

This provision of ICCPR is consistent with article 23 of the Constitution, making confessions before a police officer admissible in evidence would also imperil respect for Article 7 of ICCPR, which categorically asserts and I quote:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment close doors."

If you, therefore, extract a confession through torture and then say that the rate of conviction has become 76 per cent, how can the people of this country accept such a law? Do not give the rate of conviction and justify a law of this nature.

Sir, I have now almost done. I will end by saying the following:-

A terrorist is a terrorist. There are no good or bad terrorists depending upon which side the fence they stand. The record of the agency for implementation of POTO inspires no confidence in its objectivity, in its professionalism or its belief in the rule of law. You have seen the observations of the Chairman of the National Human Rights Commission (NHRC) on the lack of competence and lack of efficiency of the Gujarat Government, its real record for veracity and the inaccuracy of its proclamation that the situation in Gujarat had been brought under control in 72 hours. The Chairman of the NHRC says that the pall of insecurity still stands heavy on Gujarat and the Government's actions and reports have been perfunctory. The Chief Minister has made his mindset clear through his own pronouncement. He saw the reprisals of innocent men, women and children as the operation of Newton's third law of motion and not as the wanton criminal shedding of blood of those whose security was his constitutional responsibility. His kind of logic, one would have thought, was buried with the second world war and that Nero's fiddle had ceased to resonate beyond the Roman empire. Its notes, however, seem painfully alive in Gujarat today. The terrorist is an enemy of the people and, as I have said before, there are no good or bad terrorist. However, the prism of the Gujarat Government through which terrorists were perceived as such and treated differentially was against all civilised canons and mores of action. The burnings in Godhra or in Gulburg society were two sides of the same coin and equally reprehensible. The State of Gujarat saw them otherwise. Unless we can learn a lesson from this and

[Shri Kapil Sibal]

hasten slowly to this exercise that we have embarked upon with insufficient forethought and foresight, we will, I am confident, rue that day, we used the mailed fist through this legislation to bring a black law on our statute books that may unleash dark deeds of the blackest colour, stain human rights violations with shedding of innocent blood and trampling civil liberties under the hobnails of an enforcement agency that will exercise unrestrained power without the reins of necessary checks. We should not allow POTO to become an instrument of narrow partisan ends or division and dissensions that will fracture rather than integrate; generate distrust and discord that is violative of democracy and consensus. Let us be chary of passing a law not through persuasion but through brute force. Let us be patient, be ready for a dialogue, scrutinize together the inadequacies of the act before us, and take time to give it a shape that may achieve purposes to which this Joint Session can commit itself.

If we can do this, we would not have met today in vain. But if not, a day may come when each one of us must deeply regret the loss of the unique opportunity we have today to pull back from the precipice on which we stand.

The mindless pursuit of a narrow agenda has belittled the greatness of this country as never before in history. Please do not aggravate the situation by pushing through a divisive piece of mistaken legislation.

MR. CHAIRMAN: Shri Prabhunath Singh – Not present.

Shri P.H. Pandian.

SHRI KIRTI JHA AZAD: What about calling me, Sir?

MR. CHAIRMAN: Madam Deputy-Chairman has promised you. I shall call you after Shri Pandian.

SHRI P.H. PANDIAN (Tirunelveli): Mr. Chairman, I, on my own behalf and on behalf of AIDMK, express my views on this POTO Bill.

I thought for a while that had this Bill been tabled on 13th December, immediately after the attack on Parliament, it would have been passed here, in the Central Hall, without discussion.

Since morning up to this time, this Bill was viewed with political objective and lastly, legally, my learned friends Shri Arun Jaitley and Shri Kapil Sibal have spoken on this Bill.

Law must be in tune with the time. In 1860, when Macaulay enacted the Indian Penal Code, he never

thought that terrorists would be produced and they would attack every country. So, the principle of criminal jurisprudence, the presumption of innocence, was followed in India. We have not followed the French system of jurisprudence. You know that in the French system of jurisprudence, presumption of guilt is enunciated. Here, in India, the accused can sit coolly. It is for the prosecution to prove the guilt beyond reasonable doubt. If there is a little doubt, the benefit goes to the accused.

SHRIMATI MARGARET ALVA: You lodged Shri Karunanidhi in jail without POTO. Why do you need this law?

SHRI P.H. PANDIAN: Under the presumption of guilt theory, you have passed the law. In India, whether this party was in power or that party was in power, we have been in the middle. For example, whether it is the Foreign Exchange Regulations Act or the Prevention of Corruption Act, the onus of proof has been shifted from the prosecution to the accused. The benefit of doubt has been given a go-bye. Recently, in 1989, when there was oppression and suppression of Scheduled Castes, the Parliament enacted a law - the Central Act No. 33 of 1989—namely, the Scheduled Castes and Tribes (Prevention of Atrocities) Act, providing that there will be no anticipatory bail. The bail provision was deleted. The aggrieved persons went up to the Supreme Court. The Supreme Court said, no, anticipatory is not guaranteed to every citizen. It is not a Fundamental Right. On that score, in 1976, the Uttar Pradesh Legislature passed a law.

Section 438 concerning anticipatory bail was deleted. So, legally, I am of the view that this Bill is within the purview of the Constitution. As far as the definition is concerned, Section 3 clearly spelt out that 'whoever' - he may be belonging to minority or to a majority; it comes from the word 'whoever' - with the intent to threaten the unity, the sovereignty and security of India can be booked under the provisions of this Act. I would like to say that but for TADA the prosecution would not have procured a conviction in Rajiv Gandhi assassination case. The accused was booked under TADA, tried under TADA and the witnesses were saved. They were given safe custody. The prosecution was able to prove the case.

Not all persons catch the eye of the Police. The Police suspects only the suspected persons; the Police suspects only a suspected individual and not all the law-abiding citizens. I would say that the collective wisdom of Parliament, at the present juncture is that a stringent law is necessary to deal with stringent situation, to arrest the incorrigible offenders to arrest the terrorists. Drunken brawls, street rowdyisms have not gone upto the terrorist

activity. The ISI is operating inside India. They cannot operate without any inner support. Without any Indian support, nobody can enter into the soil of India. So, I would say that the ISI is operating within India and this legislation will curb the ISI activity. This legislation will curb the cross-border terrorism.

We talk about cross-border terrorism. We visited Kargil. We heard different reports that the President of Pakistan is still encouraging cross-border terrorism. Gen. Pervez Musharraf has already said it. He is not on friendly terms with India. So, in that way, when the President of Pakistan categorically said that he would not hand over the 20 terrorists, where is the law to contain terrorism? He has categorically said it and he has asked the Indian Government to identify. Who will identify when he is having those 20 terrorists?

In Mumbai, the property of Dawood Ibrahim was auctioned. There was no take for this property. There was no taker for Dawood Ibrahim's property. Why are you afraid? Had this law been there, anybody could have participated in that action. Here, in India, you are afraid to take part in an auction. This is an individual who is in Pakistan, whom Gen. Pervez Musharraf refuses to hand over to India whom you are not able to take, arrest or prosecute him. The Bombay blasts case is there. In Coimbatore, an attempt was made on the life of the hon. Minister of Home Affairs during the elections to Parliament in 1998.

How many prosecutions were there? How many bomb blasts were there? I would say that let us not view this law with a political angle. As a lawyer and as a parliamentarian I would say that this is the law to deal with terrorists which should be necessary. It is necessary.

Then, the crime is the product of law. We all know that. If there is a law passed by Parliament, then, there will be a crime also. You do not pass a law, there will be no crime. Section 3 says that whoever has an intent to threaten the security, integrity and sovereignty of India will be booked. Shri Kapil Sibal said that innocent persons may be booked. Does he mean to say that in all the cases? I heard the conviction rate, acquittal rate. Please do not go by the statistics. Acquittal is based on different factors. Lawyers and certain judges are pro-prosecution or pro-defence. There are so many factors when witnesses turn to be hostile. So, I would say that we support this law. On behalf of AIADMK and on my own behalf, we support the POTO *in toto* because in Tamil Nadu we experience so much of terrorist activity which would not have been witnessed outside. In Tamil Nadu, Tamil Liberation Movement is closer to Sri Lanka. It is closer to so many neighbouring countries. So, I would say...(Interruptions)

MR. CHAIRMAN: Please do not disturb.

...(Interruptions)

SHRI P.H. PANDIAN: This is not the way. I am taking for the country, not for you...(Interruptions)

MR. CHAIRMAN: Shri Ramesh Chennithala, please sit down. No argument please.

...(Interruptions)

SHRI P.H. PANDIAN: I am speaking for the country, not for you...(Interruptions) Madam, your husband has been murdered, assassinated. Late Rajiv Gandhi was assassinated...(Interruptions) Even for that reason, you should support this Bill...(Interruptions)

MR. CHAIRMAN: Shri Pandian, please address the Chair. Do not argue with them.

...(Interruptions)

SHRI P.H. PANDIAN: Now, barring three Members from Lok Sabha - we have 39 Members from Tamil Nadu - all are supporting this Bill...(Interruptions) irrespective of party affiliations barring three Members all are supporting this Bill. So, you must understand the terrorist echo in Tamil Nadu. What about Veerappan? You want that Veerappan to be handled by IPC; he should be handled under TADA...(Interruptions) In that way, hardened criminals should be dealt with severely, with stringent provisions. The attack on railway coach at Godhra took place. We visited and we saw that coach. Madam Sonia Gandhi also visited. We saw the carriage that was attacked. Who was the aggressor? First, you must think about the aggressor and then only the next event, the subsequent event. Who is he aggressor? So, I would say that we support POTO Bill lock, stock and barrel.

MR. CHAIRMAN: Shri Digvijay Singh.

...(Interruptions)

MR. CHAIRMAN: Shri Akhilesh, we will decide about it later. So many Members are there to speak.

...(Interruptions)

SHRI SONTOSH MOHAN DEV (Sichar): Where is the Home Minister? Where is the Prime Minister...(Interruptions)

MR. CHAIRMAN: Shri Sontosh Mohan Dev, please sit down. I have called Shri Digvijay Singh.

[Translation]

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS (SHRI DIGVIJAY SINGH): Mr. Chairman, Sir, we are debating on an important matter of the country in the House. In this very Central Hall, the Constitution of free India was framed giving shape to the dreams of freedom fighters. At that time need was also felt for the provision of joint session among other things. In our history, the joint session has been convened for the third time. The Joint Sessions held in 1961 and 1978 were about the functions of the Government. But the present subject is linked to the security of the country. By mentioning it, what I am trying to put forth is that people have a number of misconceptions in their minds about the Bill which we are debating now.

I want to ask one thing in this House. Many hon'ble Members are sitting here. Is it happening for the first time? Such a thing has already happened several times beyond the purview of constitution. I remember that a law 'MISA' was enacted in this country under which many hon'ble Members including both the former Prime Minister Shri Chandra Shekhar and the present Prime Minister Shri Atal Bihari Vajpayee were arrested...*(Interruptions)* I don't want that. I am just reminding you that it is the birth anniversary year of Lok Nayak Jai Prakash Narayan and when the law of terror was implemented in 1975, he had inspired the whole country to prefer jails than homes for the protection of democracy. But when Shri Morarji Desai, Shri Chandra Shekhar and Shri Atal Bihari Vajpayee returned to power, they were faced with the problem how to deal with Article 352 of the Constitution under which emergency—be it external or internal—was imposed. These leaders were arrested under the same emergency. But they knew that principles are more important than an individual and most important is the country. That is why, Article 352 was not removed but respected.

Many things are being said about POTO. Is it not true that when TADA was enacted, the Supreme Court had laid down 6 safeguards. There is also a provision in POTO for that. We should go through Articles 52 and 58 of the POTO. Article 58 says that in case any police officer commits excesses, against a person then the victim could take the recourse of legal action and the errant police officer can be awarded imprisonment between 2-5 years. This provision has been in the Bill. And we are being accused that this law will be used against political opponents. Half of the people in the Government are those who have preferred to remain in jails for not one or two but 19 months so that the democracy could be protected. In this Government, George Fernandes is the Minister, and I want to ask, under which regime, which

democracy was he handcuffed and imprisoned? We have preferred hand cuffs rather than compromising with the democratic set up of the country. Therefore we need not be given discourse and accused of bringing POTO for using against our political opponents.

If the opposition is apprehensive of the implications of the law, then they could have passed this Bill in the joint session and then we could have reviewed it if there was any conflict with constitutional rights. We could have moved amendments. Today the whole world is looking at us.

The country has stood as one in the time of every crisis. We have spoken in one voice during all calamities and it was proved by the two Houses following the event of 13th December...*(Interruptions)*

SHRI BASU DEB ACHARIA (Bankura): We already had laws...*(Interruptions)*

SHRI DIGVIJAY SINGH: You are right. POTO was implemented in October but still the tragic event occurred. We faced that crisis even when the law, the ordinance was already there. Basu Deb Acharia ji, laws are not made in a day. Don't you think that in the last 6 months the environment of trust has increased in the country? Don't you think that it has boosted the morale of the people in the last few days?

We all have to think and understand the matter collectively if we are to boost the moral of the people in the country.

Sir, the hon. Minister of Law, Justice and Company Affairs said that this law is being implemented in other States of the country, it is indeed admirable, but when the same law is being introduced on behalf of the Government then it is said that people are being subjected to various excesses by this Law. I therefore, say that this law has more democratic character than the laws being enforced in other areas. I never wanted to discuss this topic but I am doing so under compulsion. Everyone is seeing politics in it, we shall have to abandon politics for sometime. I request the leader of opposition that we still have time to stand united at the time of voting in the House in this period of crisis. Not only that we should stand united, but also they may doubt Government's intentions for a while if there is any scope for doubt for a law made for the unity and integrity of the country, but we assure them that the present Government would never use this law to eliminate political opposition of the people. With this hope and confidence, I support this.

DR. RAGHUVANSH PRASAD SINGH (Vaishali): Mr. Chairman, Sir, the Government want to convert POTO into POTA and that is why a joint sitting of both the Houses has been called. It seems as if the Members from the treasury benches are not prepared to speak, there is a competition going on between the Ministers. Hon. Members from the Treasury Benches are not being given a chance to speak... (*Interruptions*) The hon. Prime Minister has, on many a occasion, said in his statement, that he wants to run the country with consensus. Now under this consensus, after defeat in Rajya Sabha Article 105 of the Constitution is being involved under compulsion. So, the hon. Prime Minister's real motive has been disclosed that he does not want to run the country with consensus. When he was not able to get majority in Rajya Sabha, then how he wants to pass this black law by calling a joint sitting of both the Houses and thus achieve majority.

Sir, the hon. Minister should reply—the hon. Minister of Home Affairs says that this Bill has not been brought in a haste. If it is so, then why this Bill was not brought to Parliament before issuing the Ordinance?

All laws of serious nature are referred either to the Joint Select Committee or to the Parliament Committee. The Government have no courage to introduce the law direct in the Parliament and could refer it to the Joint Committee or the Standing Committee for a thorough scrutiny. When Government did not get the required number in Rajya Sabha now they want majority to get the Bill passed through a joint sitting of both the Lok Sabha and the Rajya Sabha. We will not allow this oppressive tactics of the Government and would go to people against it.

After the 11th September incident in America, world opinion was formed against terrorism all over the world. Even in India, our Parliament and the Jammu-Kashmir Legislative Assembly were attacked by the terrorists. After all such terrorist incidents, public opinion was formed in India, but the Government did not respect the public opinion and sabotaged it, these feelings of the people were shattered. In pursuance of the public opinion, the Government took support of their allies by deleting one or two clauses from the Bill. But several Members belonging to their allies are also absent on this. When they could not win in Rajya Sabha, they introduced it here. Had their intention been clear, they would have taken the opposition as also their allies into confidence. Fractured public opinion cannot combat terrorism. Then why are they doing like this. They are doing so with totally a different objective. This Government have been unsuccessful on every front. They are unsuccessful on the economic front, unemployment is increasing and they

have hiked the price of kerosene. Due to this, the people are against them. They needed a weapon, which could oppress people. And that is why they have the opposition, the minorities, trade-unions, Labourer leaders in their eyes, who could be oppressed. And that is why they have a different motive but they act differently. But this will not be allowed to go like this. A monkey can not be given a sword... (*Interruptions*) A law like POTO should not be given to their hands. The POTO is a draconian, anti-democratic law, where no arguments, no advocates and no appeal work. This law violates the Fundamental rights and Civil Liberty of the people.

The National Human Rights Commission also said that this law is not appropriate and it should not be brought. The Supreme Court also said that such laws are often misused. There are many instances of misuse of such laws. The present Government are an inexperienced one with a stubborn attitude although they have the experience of TADA. Everyone admits that TADA was misused. The then Government has placed all the points on the basis of their experience. And after having consensus, the Law was annulled. The present Government have not understood the things even after hurting the feelings of the people. They have worked against their own experience and have brought in the draconian Law, POTO which has violated the Civil Rights, freedom of a citizen as also his Fundamental Rights. The present Government is fascist in character. It is a black law. I would urge the House to reject it. Presently their allies are helpless, as the opposition could not provide any alternative, so the allies are extending their support to the Government. Despite being against the Bill, the allies are sticking to Government side. On the other hand communalism is raising its head. Ours is a secular country should be taken by following this policy.

Members from the Treasury Benches say that POTO will not be misused, but two of their Ministers viz Shri Arun Jaitley and Shri Arun Shourie have made statements in the beginning that this law can also be misused like other Laws. Two Ministers of their party have said so. They do not say that the law would not be misused, but say that it will be misused. And he misuse has even started. Recently POTO was used against some particular class and then it was withdrawn later. The Government enforced POTO on 62 persons. It was not enforced against the real rioters.

Members of Vishawa Hindu Parishad, Bajrang Dal, rioters and Shri Narendra Modi should also be arrested under POTO. We agree to it and will support POTO. However, discrimination is being made in taking action against the persons involved in riots. Action is not being taken against the rioters. POTO is not being applied

[Dr. Raghuvansh Prasad Singh]

against the sectarian powers and disruptive forces in the country. It clearly shows that this law is anti-minority and anti-people. This is a repressive law just to oppress the opposition. Therefore, to some extent we oppose POTO and will continue to do so. If the Government do not agree, we will go to the people. People of our country favour democracy and secularism. The Government made POTO an issue just for political reasons. However, they were defeated in four States. Now they are trying to project it as an issue in the whole country. Definitely, they will lose the election in Delhi also. No force in the world can prevent their defeat. They are waiting for the completion of full term of their Government but they would not be able to complete their term of five years. Dr. Lohiya had said that one should not wait for a such a Government to complete its full term. We must be remove the present Government. They are not in power in more than 20 States. They have their Governments only in two three States which are involved in riots. The Black Act like POTO should be withdrawn. It is against democracy and is a blot on the face of our country. Today rioters are moving scot free in Gujarat....(Interruptions) \*

With these words while giving a call to oppose POTO, I would like to say that it is a black law, it is against democracy and is in violation of human rights. This Government failed on the economic front. The present Government is anti-poor. It is the Government of rioters. POTO should be repealed.

I have to say this much only.

[English]

SHRI BHARTRUHARI MAHTAB (Cuttack): Thank you, Mr. Chairman.

As has been said today, this is an extraordinary situation and we are enacting a law which is equally extraordinary.

I had said, while discussing this Bill in the Lok Sabha, that when there is a demand in the State, the society itself gives more powers to the State or to the establishment to restore law and order.

In this country, with so much of bloodshed and with so much of killing, there is a necessity to have a stringent law. Two aspects have been dealt with in this Bill – one is terrorist activities and the other is disruptive activities.

\*Expunged as ordered by the Chair.

Regarding the terrorist activities, there is nothing more for me to add to what has been said today. But regarding disruptive activities, the whole nation is affected by it. I had drawn the attention of the House to one aspect of this Bill – how the Member from Purulia had been raising objections. I want to draw the attention of the Members of both the Houses to the case relating to the Purulia arms drop. When this Bill enacted as a law, it should look into this aspect also.

It is not only the cross-border terrorism, not only terrorist being exported by our neighbouring countries, that this Act should take care of, but those countries or those elements who are sending arms and ammunition to create disruptive activities in different tribal areas should come under its purview.

Another question was raised while discussing this in both the Houses – why have we deployed so much of armed forces in our Western front. The reply was given by the hon. Defence Minister in Lok Sabha. The reply was that after the attacks on Talibans by the Allied Forces under the leadership of the United States, the Pakistan Army pulled out all its armed forces and positioned them on the Indian Border. Why did it do so? Due to that we have deployed a large part of our Armed Forces on the Western border. Now, the snow will be melting and a lot of infiltration will be taking place. That is the main reason why we should have this law. It is to apprehend those terrorists.

There are three aspects which are to be looked into. They are, to target terrorists, to target those people who will be sheltering the terrorists, and to those who will be providing finances to them. These are the three aspects which should be taken care of by this. On behalf of the Biju Janata Dal, we extend full support to this Bill and I support this Bill *in toto*.

MR. CHAIRMAN: Another 20 speakers are there to participate in this discussion. They will be completing as early as possible. Kindly cooperate so that we can complete it early.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, we the TDP, have supported this Bill both in Lok Sabha and Rajya Sabha and we extend our unequivocal support event this eventful Joint Parliamentary Sitting.

Everybody is awair and everybody has to accept that State terrorism has assumed gigantic proportions not only in this country but also as the global level. It is the primary duty of any civilised Government to provide security to the people which can be only possible by curbing the terrorism at grass-root level. One important

aspect of this terrorism is that it adversely affects the economic growth of the country. Some mis-utilisation of a particular law has been discussed. We have been entertaining hallucinations the imaginations and the need of the hour is to provide safety to the citizens of the country. We should make them live with a sense of security and with peace and tranquility. It is not possible unless the Government contains terrorism.

After India opted for economic liberalisation, it was genuinely believed by the economic experts, the financial managers of this country that having the tenth largest production base and one of the largest scientific pools in the world with an indigenous Space and Atomic Energy programmes, with free Press, free economy, free democracy and the English speaking capability, we should naturally attract billions of rupees in this country as FDIs but which was not the case. What is the reason? Let us have an introspection.

The Government is trying to create a conducive atmosphere for the industrialisation of the country and in spite of that we are unable to get it. Take for example the case of China. With a regimented society, with no free Press, no free democracy and with no free economy it has been getting 40 billion of dollars per annum. The only conclusion I can draw is that it has got a disciplined society, perfect law and order tranquility in which people are living there. So, the Western countries may criticise China but China is the greatest beneficiary as far as the economy is concerned. Sir, this is mainly because of the law and order situation in our country. To take the case in a post-liberalised scenario where there is no licencing, to direct the direction of investments in a particular State or a place, only a State which can project itself as a showcase can attract the investments. I can say at this juncture that no Chief Minister in this country has ever tried as Shri Chandrababu Naidu to get the foreign investment in spite of that we regret to say that our efforts are not encouraging because of the extremist problems that are being faced by our State, which we are trying to solve and we have gone to the extent of negotiating with them, making terms with them so that the glass can be cut. Such efforts are needed today. We should not politicise the issue or take any political advantage out of it.

At this juncture, it should be the endeavour of all political Parties, not only one particular Party to make such efforts. Today one Party is in power and the same Party may be in the Opposition tomorrow. We should not derive political advantage out of everything. A gentlemen was talking about the civil rights. Can anybody have the moral right to ask about the civil rights? Can anybody arrogate himself as the champion of civil rights? In this

country an emergency was declared when a particular individual lost the elections. More than three lakh persons, including Lok Nayak Jai Prakash Narain, were arrested. Censorship was imposed. Black laws were executed. And, in a particular incident when person was shot dead by an official, there was no appellate authority, no appeal. That was the state of affairs at the time of emergency.

18.00 hrs.

I wonder how some of us are arrogating to ourselves the right of talking about civil rights. It is very unfortunate. Let us be pragmatic.

MR. CHAIRMAN: Now, time is 6 p.m. and another 15 speakers are there. If the House agrees, we could extend the time till the completion of the business.

SEVERAL HON. MEMBERS: Yes.

MR. CHAIRMAN: So, the House agrees to extend the time of the House till the completion of business.

SHRI C. RAMACHANDRAIAH: Sir, that is why my appeal to all the Members is that we should cooperate with the Government and the Government should also leave no stone unturned in its endeavour to uproot terrorism from the country in whichever form it may be there. When we look at the problem of terrorism, we know that the actual breeding centres are somewhere outside the country. Sir, without the connivance and without the abatement of the local people, terrorist incidents cannot take place. So, it is high time that the Government sincerely take all the constructive measures to curb terrorism.

Sir, very profusely the American and British laws have been quoted. I wonder do we need American laws here? We need laws to suit this country. We need Indian economic policies to suit this country. Let us not import policies which are prevailing in America or United Kingdom...(*Interruptions*)

MR. CHAIRMAN: Please do not interfere.

SHRI C. RAMACHANDRAIAH: I have not taken the *wakalat* on behalf of the Law Minister. I am talking on my own behalf...(*Interruptions*)

Sir, having said this, I, as a parliamentarian, appeal to the Government to kindly ensure that this law is not misused...(*Interruptions*)

MR. CHAIRMAN: You please maintain dignity and decorum of the House. Why are you laughing like this.



SHRI C. RAMACHANDRAIAH: Let us not live in hypocrisy. When you are in power, you want a different law but when you are in the Opposition, you are opposing it...*(Interruptions)*. You are responsible for the destruction of all the democratic institutions in this country. You have stifled with the judiciary. You wanted a committed judiciary. You are responsible for all the evils of the society and now you are preaching all these things. It is very sorry state of affairs. Let us discard all this...*(Interruptions)* I repeat it with all the force at my command and I will never mince words. That was the fact. That is the history. How long you would play havoc with the economy of this country? Forty-nine per cent urban population and 42 per cent of the rural population is still under-nourished in this country. Twenty-five per cent population is living with low calorific value and we are not caring about them. We are not caring about the masses. We are not caring about the people living below the poverty line. We want to make political advantage out of a law which has got no significance. I will tell you that. Let us be very frank and let us be pragmatic. After all we have been elected by the people to serve the people and to strengthen them economically. That should have been our attitude...*(Interruptions)*. Kindly do not provoke me to make comments which you cannot relish. Sir, this Act has to be implemented by a very lower rung officer like ISI.

It may be under the supervision of a Superintendent of Police. It cannot be run by Ministers. What is your difficulty? You have fourteen States under your control. Do you not have confidence in your own Chief Ministers and Home Ministers of the States run by your Party? The philosophy or the logic put forward by the Opposition is that supposing there is a lock-up death in a police-station, you destroy or remove the police-station itself. This is no way. Let us talk with the Government so that we can bring out a statute which may be useful to the society and the people can live in utmost tranquility. That should have been the spirit.

I would request the opposition to stand by this Bill. Let us receive all the pragmatic suggestions so that the Act can be made more effective. I also find that there is virtually no judicial jurisdiction in this Bill. I am aware of it. Therefore, let there be some Committees at the State level consisting of retired civil servants and jurists so that they can act as an appellate authority in order to see that no abnormal thing or aberration takes place in the country. That is why I appeal to the main political parties not to entertain any misplaced doubt or suspicion. Let us be very pragmatic; let us come out with some amendments if you want them so that this statute can be made and effectively implemented.

*[Translation]*

DR. RAGHUVANSH PRASAD SINGH: Mr. Chairman, Sir, hon'ble Prime Minister, Home Minister and Law Minister are not present in the House. Through you I would like to know whether they have left the House to reconsider the withdrawal of POTO. We should be informed about it...*(Interruptions)*

*[English]*

MR. CHAIRMAN: So many Ministers are here. They will also come shortly.

...*(Interruptions)*

MR. CHAIRMAN: Okay, I will call the Home Minister. The Home Minister is coming. Please sit down.

...*(Interruptions)*

DR. RAGHUVANSH PRASAD SINGH: Rethinking process has started. The Prime Minister, the Home Minister and the Law Minister are absent...*(Interruptions)*

*[Translation]*

KUNWAR AKHILESH SINGH (Maharajganj, U.P.): Mr. Chairman, Sir, it is more than 6 p.m. but still voting has not been done. I request you to fix the time for voting and we should be intimated about it...*(Interruptions)*

*[English]*

MR. CHAIRMAN: If everybody agrees, we will go for voting. Please sit down. Now, Shri J. Chitharanjan to speak.

...*(Interruptions)*

MR. CHAIRMAN: Shri Akhilesh, please sit down. I have already called one Member and he is on his legs. He is about to speak. This is not the way.

...*(Interruptions)*

SHRI J. CHITHARANJAN (Kerala): Mr. Chairman, Sir, I, on my own behalf and on behalf of the Communist Party of India, oppose the Prevention of Terrorism Bill in toto.

After the Bill was defeated in the Rajya Sabha, I thought that the hon. Prime Minister, hon. Home Minister and the Government as a whole will reconsider their stand so that a consensus could be worked out and steps could be taken for that. Unfortunately, they have not done

that. Instead of that, they have taken steps to convene a joint sitting of the two Houses. And of course, this is a part of the confrontation. I thought that the Prime Minister will definitely think about resorting to some other method so that a consensus could be worked out because the Prime Minister had always been, since the time he has taken charge, repeating that he will proceed on the basis of consensus. But here, regarding this Bill, it has become clear that there is terrific opposition involving large sections of people. Not only the Members of the Legislatures but even the National Human Rights Commission have unanimously expressed their view that this law is not at all needed at this moment to face the terrorists. They have also stated that the existing laws - I do not name the existing laws - will be enough to deal with them provided they are implemented effectively and proper machinery is being arranged so that implementation may be carried out.

18.09 hrs.

[SHRI SURESH PACHOURI *in the Chair*]

This is what the National Commission on Human Rights has said. It is not said by persons like me or even other people but said by a very authentic and statutory body, the Chairman of which had been the Chief Justice of India for some time and is a reputed person. It is not only that. Please look at the national papers. Almost all the national papers have written against it. All the national papers have condemned the attempt to convene a Joint Session of the two Houses to push through this Bill.

Then several legal luminaries have also expressed their views. For example, Justice V Krishna Iyer, Shri Nariman and several legal luminaries have expressed their views that this will be curtailing the democratic rights of the citizens which are guaranteed by the Constitution. Therefore, they have all expressed their views. Besides that, several other organisations have expressed their views. A large number of political parties are also opposing it. It has not occurred in the case of any other Bill. Therefore, it is a very unusual situation. In that case, if the Government tries to push through the Bill in this joint sitting, then that will be ignoring the biggest opposition that is there for this Bill. That will not be correct.

Secondly, I have to say something regarding the provisions of the Bill. I do not want to go into the details but generally speaking, there are several provisions and Clauses of the Bill which are very objectionable. For example, Clause 3 is giving the definition of terrorists. The definition given in the Bill is very vague and nebulous. Therefore, it can be misused to a greater extent. Then,

Clause 14 is regarding furnishing information in the possession of individuals as well as institutions. Clause 18 is likely to be used against organisations critical of Government or even political opponents. Then, there are Clauses 32, 37 and 45 which are objectionable. These provisions are in contravention of all the basic principles of jurisprudence and also against the principles of the Evidence Act and several other legislations. Therefore, these provisions are highly objectionable and the Bill itself is totally objectionable.

Then, coming to another point, why is the Government particular about insisting on this Bill?

[*Translation*]

SHRI SATYAVRAT CHATURVEDI (Khajuraho): Mr. Chairman, Sir, my name is there in the list. When will you allow me to speak?

[*English*]

MR. CHAIRMAN: I will let you know. Please wait for some time.

SHRI J. CHITHARANJAN: Of course, the Home Minister has argued that such a Bill is necessary in order to control the terrorist situation. Along with that, he came out with two reasons. One is that the United Nation's Security Council has passed a Resolution. He did not say what exactly is stated in that Resolution. What the United Nation Resolution has said is that, a comprehensive and effective measure will have to be taken. That is all. Then, why should they insist for a law like this, when there is a serious opposition to this Bill at this time? What they have said is that, when they go to America or Britain, people are asking what you are doing. If the Bill is not passed, they will ask us, even though you are suffering from terrorism, why you are not taking sufficient steps? A little while ago, the Prime Minister himself has said that we cannot depend on anybody else to prevent terrorism. We have to face these terrorist attacks and we have to contain this terrorism using our own strength. If we have to face it ourselves, then why are you bothered about the questions that would be raised by the Britain or the United States officials. Why are you not worried about the questions and opposition raised by various sections of people in the country? Legislators, State Governments, National Human Rights Commission and several important organisations and establishments have already raised objections. You are not interested in replying to them. You are not concerned about them.

Therefore, what I have to say is this. This Bill should be rejected or else the Government should take other measures to bring about consensus as to how to face

[Shri J. Chitharanjan]

this problem of terrorism, if some new measures are needed. Instead of that, if you push through it, really you will be dividing the society. The Home Minister and the Law Minister raised a question as to why should we question the methods of the Government and as to why we should question the Government's *bona fides*. Let us be very clear about it. There is a very strong feeling among the people that the Government is taking a partisan attitude. Take, for example, there are organisations in this country which are declaring that for security we should not depend on police, but we have to get arms, not only get arms, but keep them in our houses. An organisation which is very much connected with the BJP is making that statement.

Recently, an organisation has passed a Resolution that minorities, if they want to subsist here in a peaceful manner, they will have to get favour of the majority community. If this is the case, the basic fundamental principles of our Constitution are being thrown overboard. Moreover, when this Government came into power, the first thing they did was to review the Constitution. They appointed a Commission. They have expressed some views. They said that Presidential form of Government is required. Therefore, people have their own doubts. What has happened in Gujarat? That had aggravated or increased the feelings and fears of minorities and other sections of the people. We also fear that this will be used against the working class, peasants and other sections of toiling masses who will have to fight against the anti-people policies of the Government. They will also be attacked by POTO. Therefore, we are of the opinion that this should not be adopted. Therefore, I appeal to the Joint Session that this Bill should be rejected.

MR. CHAIRMAN: Dr. Sushil Kumar Indora to speak now.

...(Interruptions)

[Translation]

SHRI SANJAY NIRUPAM (Maharashtra): I want to give an information regarding the issue being discussed in the House...(Interruptions) I want to give an important information.

[English]

MR. CHAIRMAN: Shri Sanjay, please take your seat. I have called the next speaker to speak.

...(Interruptions)

[Translation]

MR. CHAIRMAN: 9 minutes time was allotted for your Party. He has already consumed 29 minutes.

...(Interruptions)

[English]

MR. CHAIRMAN: No. I have called the next speaker to speak.

...(Interruptions)

MR. CHAIRMAN: Nothing will go on record.

...(Interruptions)\*

[Translation]

MR. CHAIRMAN: Shri Sanjay, I have called him.

...(Interruptions)

[English]

MR. CHAIRMAN: I have called the next speaker to speak. Please take your seat.

[Translation]

DR. SUSHIL KUMAR INDORA (Sirsa): Mr. Chairman, Sir, a joint sitting of both the Houses is being held on Prevention of Terrorist Bill to keep a check on terrorism. The Government made this an issue because circumstances are so adverse that we need a stringent law which could prevent killings of innocent people and check the inflow of foreign funds which the terrorists use to spread terrorists and disruptive activities in the country. Therefore, in the present circumstances, the Government feel the need to bring POTO. Here, I would like to mention one thing. As per my views the Government one thing. As per my views the Government themselves are a force, be it the State Government or the Central Government. Under any circumstances, if Government intends, they are able to control the things, be it corruption or terrorism. In view of it there seems no need to bring POTO. However, the Government intend to give POTO a statutory status, therefore, this joint sitting is being held to pass this Act.

There is no harm in enacting law. Since I am sitting in the House watching the Proceedings, I have observed that the members who are opposing the bill have not done Clause to Clause study of POTO. Except one or

two members, none have made comments on any clause of the bill. One thing is being said repeatedly that it will be misused. Time and again it has been said that it would be misused against the minorities politically. Today, it is their Government. We are supporting them and acting as middlemen. However, circumstances may change at any time and opposition can come to power. In that case will they assure the House whether it will be misused against the minorities or not. In the changed circumstances, they may approach the opposition with a request to support such a Bill in the national interest. Today the Government are enacting such a law in the interest of the nation. Not only in our country but it is being accepted internationally that terrorism is on the rise. No country has been spared of it. Various countries are enacting laws for prevention of terrorism. We should also enact such a law and give it a constitutional status. Shortcomings, if any, can be looked into and amendments can be made. I do not see anything wrong in the intention of the Government. I do not think the Government will misutilize it. We enact the law and also implemented it, then why should we be afraid of one another.

Today we are formulating legislation and the people responsible for enforcing it are also ours. So why are we afraid. Why are we time and again discussing that it will be misused against minorities. I would like to submit that the Government have good intention and the Government will implement it rationally. My submission is that though we formulate legislation however we do not sincerely enforce it for the purpose for which it is formulated. So I am of the opinion that such thing should not happen. I hold the view that the legislation that is formulated by us should be enforced rationally. At several occasions it has been observed that several laws remain inactive and are not enforced, such thing should not happen. The peace may prevail in the country, the atmosphere of harmony and brotherhood may prevail and the people of different castes and religion may live in harmony and the outsiders may not provoke us. So I want that POTO should be used rationally.

Mr. Chairman, Sir, I would also like to request the hon'ble Members of the opposition that the message should go to the people of the country that we are all united on this issue. So the Members of opposition should also support the POTO and should strengthen the Government. It is not only concerned with the Government rather it is in the interest of the entire country. I would like that the legislation that we are going to formulate should be enforced in letter and spirit. I fully support this Bill and submit that it should be enforced rationally.

KUNWAR AKHILESH SINGH: Please tell me when will be the voting?

MR. CHAIRMAN: The Members of all the political parties will be given chance to speak. The time of voting will be intimated after discussion with the Minister of Parliamentary Affairs.

[English]

SHRI PURNO A. SANGMA (Tura): Mr. Chairman, Sir, much has already been said about POTO today. The Lok Sabha and the Rajya Sabha have debated separately. I do not want to take much of the time of the House. I would basically make three-four points.

There are different dimensions of terrorism. The first dimension is to deal with the export of terrorism into our country, which we call 'cross-border terrorism'. The second dimension is domestic insurgency. I come from an area and region where we experience everyday as to what domestic insurgency means. The third dimension of terrorism is the combination of the first and the second one, that is, the exported terrorism and the domestic insurgency. The fourth dimension is narco terrorism, which includes terrorism across the borders and the related crimes. Then, of course, the fifth dimension of terrorism, that is, the organised crimes and terrorism operating in tandem.

Another one, which perhaps we sometimes forget to think about it, is the way terrorism is growing technologically. Terrorism growing technological with highly destructive weaponry and the use of communication system. Last but not least is globalisation of terrorism. It is no more the crime confined to a particular country or any particular area. It has become global.

Sir, *Al Qaeda* is reported to have their operation centres in 21 countries including India. Now, given these dimensions of terrorism, how do we deal with that is a very pertinent question. The question arises whether the present type of terrorism that is existing here and everywhere, particularly in India, can be dealt with by the existing legal systems, the Indian Penal Code or the Criminal Procedure Code – TADA has been repealed – can this problem be dealt with by the existing law is a question before the nation. My humble opinion is that the dimension of terrorism has taken such a shape – I have given some examples – that this problem cannot be tackled by the existing legal system, within the framework of the existing laws.

What is terrorism? What does our law say about terrorism? Is terrorism a crime under the Indian Penal

[Shri Purno A. Sangma]

Code? Has terrorism been defined in the Indian Penal Code? To my knowledge, 'no'; terrorism has not been defined. Therefore, we feel that there is a need for a separate legislation to tackle terrorism in our country. We are the country which has suffered maximum due to cross-border terrorism and India has been pleading with the whole world at every international forum, impressing upon the world community and dangers of terrorism, the dangers of cross-border terrorism.

I had the privilege of leading Indian Delegations many times to many countries. In every international forum we had impressed upon them to recognise how dangerous it was, how India was facing cross-border terrorism. We did not get much of a response, to be very frank. Even recently, the Government of India was very kind to send Parliamentary Delegations to many countries. I had the privilege of leading of the Delegation to the European Parliament. We went there to tell the European community what cross-border terrorism means, what terrorism means. Shrimati Margaret Alva is just back from the IPU Conference at Marakkesh and Shrimati Najma Heptulla is the Chairperson of the IPU. I know that there was an Indian-sponsored Resolution in the IPU Conference, because when I went abroad, to European countries, I got a lot of fax messages saying that I must campaign for getting support to the Resolution to be tabled by India on terrorism. When we have been doing all this and we have been trying to mobilise the world opinion against terrorism, how can we say that we should not have a law to curb terrorism? I do not think we can sell this idea now. A law is required. We will have to have a law and terrorism has to be dealt with very seriously.

When this Ordinance was promulgated, we had reservations. We had a party meeting chaired by our President Shri Sharad Pawar. We asked our Legal Cell to advise us. We had a lot of reservations about the Ordinance, but when the Prime Minister called the All Party Meeting, my leader Shri Sharad Pawar attended and he proposed eight specific amendments to be carried out in the revised Bill.

I must thank the Government. The Government has accepted most of the amendments that we suggested in that meeting. We are grateful for that.

The apprehension that is being expressed is very genuine. There might be a misuse of this law as TADA had been misused. Particularly the minority communities in this country are very apprehensive. We must recognise that aspect. We must ensure that this law is not misused.

But the point is that it will be misused. I do not think there is any law in our country that is not misused. Every

law is being misused. In my view, that apprehension for misuse of the law should not be a reason for not enacting a law. How can this be a reason not to enact a law?

Now, who will do the misuse? That authority which is implementing it will do the misuse. It is the State Government that will invoke POTA. It is the State Government that will implement this law. As Shri Somnath Chatterjee has rightly pointed out, most of the States in this country are being run by the Opposition parties. So, I do not know why they are thinking of misusing it. They should not. I appeal to them not to misuse this law.

With these words, I extend our support to the Bill.

MR. CHAIRMAN: Now, Shri H.K. Javare Gowda. According to the strength of your party, the time allotted is three minutes. But you may speak for five minutes.

SHRI H.K. JAVARE GOWDA (Karnataka): Ail right.

MR. CHAIRMAN: Please be brief.

SHRI H.K. JAVARE GOWDA: Mr. Chairman, Sir, I thank you for having given me this opportunity. Many senior and learned Members have spoken about the sequence of events and the acts of omission committed by various parties and the misdeeds committed by the past Governments and the present Government? I am going to stick on to a particular aspect of the law. I ask the Treasury Benches to please look into the definition. In the definition, the suspicion is there. When you suspect a man, you are going to invoke POTO. The suspicion is not a truth. It is only an assumption. But unfortunately a man has to suffer for one year without any piece of evidence.

I am going to urge upon the Treasury Benches about another point. Please look into Section 3, sub-clause (7). Mr. Law Minister, I would like to draw your kind attention. What is that? Section 3, sub-clause (7) prescribes punishment for a maximum period of three years or fine or both. I am a *Mofussil* lawyer. You are practising in the Supreme Court. You are a legal luminary of this country. After conviction, what has the court to do? If fine is there, an option is there. There will be only fine, and not jail. Under those circumstances, Section 49, sub-clause 7 says: "For one year without trial, he has to be in jail." Why? Are you going to rectify that or not? That is my moot question. You please answer that.

Many advocates and Members have spoken regarding Section 32 of the POTO and the Indian Evidence Act. Even today, the Indian Evidence Act is one of the best pieces of legislation in the world. But under this Act, you

have given a go-by and an over-riding effect. If a man is alleged to have committed an offence under this Section, the agency will put him behind the bars. Even after one year, if you are going to acquit that person, what will be the fate of his family?

18.39 hrs.

[SHRI T.N. CHATURVEDI *in the Chair*]

In what way are you going to compensate the man who has suffered for no fault of his in life in a jail? That is to be answered by you.

The second point that I am going to urge upon the hon. Members is this. I am not going to make a political speech in this House. I ask all the hon. Members that you have all suffered under MISA, you have all suffered under TADA, and now you are going to suffer under POTO.

After 19th of this month, what is the good conscience and what is the bad conscience of Gujarat Government that made them to invoke POTO against the so-called accused? On 22-3-2002, what is the good conscience and what is the bad conscience of the Gujarat Government that made them to revoke that Section? Please explain that.

SHRI N.K. PREMACHANDRAN (Kerala): Thank you Mr. Chairman for giving me this opportunity to vindicate the views of RSP, my party, regarding the Prevention of Terrorism Bill 2002, which is passed by the Lok Sabha and rejected by the Rajya Sabha, in this historic Joint Session of this Parliament.

At the outset, I strongly and vehemently oppose the Bill, POTO 2002, as it infringes the basic fundamental rights, violates the human rights and civil liberties of the people of this country. So, I would like to describe it as a draconian piece of legislation since it is lacking human values and freedom. If this Bill is enacted as a law, definitely it will be a set back for the promotion and protection of civil liberties and human rights in this country. So, I appeal to the whole House that this draconian piece of legislation, this black law has to be rejected *in toto* by the Joint Session of this House. That is my first appeal.

Regarding the promulgation of the Ordinance, the Ordinance was first issued on 24th October, 2001 and immediately after that during the Winter Session, it was sought to be introduced before the House. Due to vehement opposition, it could not be introduced. On 30th December again, the second Ordinance was promulgated and in the Lok Sabha it was passed in the Budget Session, but in the Rajya Sabha it could not be passed.

Why the Government has introduced POTO, Bill in this Joint Session if it is believing in democratic principles? If this Government is believing in democratic principles, the Government ought to have tried for a consensus between the parties to have a reconsideration and review of the harsh provisions of this Bill. Instead of taking such a step, this Government has taken a hasty step to convene the Joint Session to get the Bill passed. There lies the intention of the Government and the intention of the Government is not *bona fide*. Is it an attempt to curb terrorism?

The Leader of the Opposition in the morning has said that this Bill is introduced with a *mala fide* political motive and intention and the parliamentary procedure has been used for the same. I fully support the Leader of Opposition because this Bill is intended to suppress the democratic movement in this country. Against this Government, because of the economic and labour reforms, strong agitation is coming in this country. The Government wants to suppress the democratic moves in this country. The Government also wants to misuse the provisions of this Bill so that the interests of the minorities will be adversely affected, and that the *Hindutva* political doctrine of BJP can be implemented in this country. That is why we are saying that this is lacking *bona fide* intentions.

Sir, when the hon. Home Minister was replying to the debate in the Rajya Sabha, he has been appealing to the House not to attribute motives on us and not to doubt the sincerity of the Government. I would like to very vehemently say that we are doubting the *bona fides* of this Government because of the recent happenings that we saw in Gujarat. POTO has been used against a particular community, but it has not been used against the other community. So, the discrimination, the misuse, the selective use of POTO against a particular minority community has been established in the recent Gujarat episode. Then how can we rely upon the Government? How can we rely upon the *bona fide* intentions of this Government?

Due to paucity of time, I am not going into the details of this Bill.

So, if the present laws, which are now in existence are sufficient to deal with the terrorist acts in this country, what is the need of this draconian legislation? It is against the principles of criminal jurisprudence, against the principles of natural justice and against the principles of common law, and this draconian legislation has to be rejected by this House also.

Sir, I would like to say that in order to protect the secular fabric of this country and also the democratic values of this country, this Bill has to be rejected.

[Shri N.K. Premachandran]

With these words, I oppose this Bill and I hope, I believe and appeal to the House that this POTO Bill may be rejected *in toto* so that the secular fabric and the democratic values of this country will be protected.

SHRI P.D. ELANGOVA (Dharmapuri): Mr. Chairman, Sir, on behalf of our Party, *Pattali Makkal Katchi*, and our beloved leader, Dr. Ramdas Ayya, I wish to convey our views in this historic Joint Sitting of both of the Houses of Parliament. I wish to speak in Tamil.

[Translation]

\*Sir, I thank the Chair for giving me an opportunity to speak on the historic occasion to pass POTO as an Act in the joint sitting of the Parliament. I would like to put forth my view on behalf of our founder leader Dr. Ramadoss and on behalf of our party *Pattali Makkal Katchi* - PMK.

Nation, in the present scenario, needs to have prevention of terrorism law. The dastardly acts perpetrated by the terrorists have to be contained. In their disruptive acts whoever lend them support either directly or indirectly thereby causing damage to the country's unity and peace must be identified and must be brought to book. In order to bring them before law and to punish them accordingly POTO is essential at this juncture.

Those who resort to terrorism and those who extend support to the terrorists are both against the society and humanity. They are enemies to the human kind. Showing concern to such inhuman people would be like venturing into the hiding place of a poisonous cobra.

A specific community particularly the minority community may be hunted down with POTO is the apprehension in the minds of some people. Political parties may settle scores with one another using POTO is another misapprehension in the minds of some others. Though these are needless apprehensions, we cannot deny that there is no basis for these apprehensions. What happened in the past suggests that there is basis.

POTO aims at crushing down terrorists. The apprehension that it may pounce up on innocent citizens can be dispelled only when they are judiciously exercised.

Both the Union and the State Governments, through their fair implementation must give a guarantee to the Parliament that passes this Bill. I have no doubt and fervently hope that they will all be fair.

When an individual is booked under POTO, an impartial and objective enquiry must be there to ascertain their family and social background.

A person held under POTA if proved innocent must be adequately compensated. If they have been deliberately wronged the official concerned who misused or abused the law must be punished.

When exercising the authority conferred by POTA, every official especially the police officers must be above board, non-partisan and objective with impeccable integrity beyond doubt. Both the Union and the State Governments must ensure this. The conduct of such officials in the past, their service history and their current assignments must be carefully monitored.

POTA, as a law, must be handled by the Union and the State Governments in a transparent manner. Care must be taken to avoid wreaking vengeance and settling scores. It can be evolved to have a fortnightly review by a Standing Committee of the Parliament. Every State may also constitute such review Committees comprising of a Human Rights Jurist, a senior journalist, a retired judge of a High Court, a member of an NGO for the cause of Human Rights, and the representatives of recognised political parties.

Press being one of the pillars of democracy, press must have its press freedom uncurtailed. The POTO Bill incorporates amended provisions to ensure this. Still the responsibility vests with the Union and State Governments.

The danger potential of the terrorists cannot be gauged by the sparse arrest of terrorists here and there. Those who plot terrorism evolving plans paving way for destruction and those who provide help to such terrorists to execute their evil designs must be severely dealt with.

Our PMK whole-heartedly support this law that needs to be implemented in a fair manner. On behalf of our founder leader Dr Ramadoss and on behalf of my party-*Pattali Makkal Katchi*-PMK I extend my support to this Bill.

SHRI RAMJIVAN SINGH (Balia, Bihar): Mr. Chairman, Sir, the discussions are being held on POTO since morning. During the last Winter Session when the discussion was to be held on this ordinance, a meeting of the Congress Chief Ministers was held in Delhi. Probably the Congress Chief Ministers supported the POTO Bill, however I came to know that when it was televised the Congress President was shocked. The meeting of the Chief Ministers is going on, some working solution is being sought. The meeting was concluded at

\*English Translation of the speech originally delivered in Tamil.

9 p.m. The Congress spokesperson came out of the meeting and told that they are opposing the Bill for the reason that they were not consulted regarding this...(*Interruptions*)

MR. CHAIRMAN: He heard it on television.

SHRI RAMJIVAN SINGH: Mr. Chairman, Sir, when I am submitting anything I am telling it with full responsibility. I heard it on television and I was surprised to see that the Congress Party which is a prominent political party and which has a long history of more than 100 years and has long experience of remaining in power is telling that they are opposing it because they were not consulted. I would like to submit to the Congress Party that our Government of Shri Atal Bihari Vajpayee is so much concerned about you and is afraid of you that the portfolio of one lady Minister of State was changed after she got involved with your leader. Even after this you are telling that you are not consulted...(*Interruptions*)

MR. CHAIRMAN: Please come to the topic. Please keep patience.

SHRI RAMJIVAN SINGH: Mr. Chairman, Sir, while moving the motion, the hon'ble Minister of Home Affairs have discussed all the aspects of POTO. Thereafter our Minister of Law discussed in detail about the contents of POTO as to what is its significance and the controversial points of the Bill. I would not like to repeat those things as there is paucity of time.

Sir, it was alleged and several Members of ruling party and the opposition have expressed their apprehensions that it will be misused. Since independence till today there is no any recognised political party in the country who did not get an opportunity to come in power either on its own or in coalition or the Central Government or the State Government have not been alleged that laws have been violated or laws are being violated. In 1974 when Shri Jai Prakash Narayan ji was leading the movement, I resigned from the Legislative Assemblies and joined the movement.

Once on 4 August 1974 Shri Jai Prakash Narayan ji had to visit in our area. I was organiser of the meeting, but I was arrested on 1st August under section 379. I would like to mention about the content of the FIR. One boy lodges FIR that yesterday he was going to attend exam in so and so college at 11 O'clock. Two boys came and forcibly took me to an advocate's residence. They snatched my copy and pencil and at 12 O'clock they released me. That boy was telling that Ramjivan Babu is also expected to come so I was arrested under Section 379 and was sent to jail. After some time I was released. Will you abolish this law.

Mr. Chairman, Sir, I would like to mention one thing that laws are misused not by bureaucracy rather it is misused by the Government. The bureaucracy functions as is instructed by the Government. I would like to tell you a story in this regard. Once emperor Akbar ate vegetable of brinjal. He liked it. When he went to the Court he told Birbal that he (the Emperor) ate brinjal and he liked it. Birbal told that there is no any vegetable superior than brinjal. After one week once again Akbar ate brinjal that caused pain in his stomach and gastric. When he visited the Court he told Birbal that brinjal had caused his stomach pain. Upon this Birbal told that brinjal was the worst of vegetables. Akbar told Birbal I could not understand this that one week back you had said that brinjal is best vegetable now you are telling that brinjal is worst vegetable. Birbal told, 'my lord I am your servant and not the servant of brinjal.' I change my language according to your wishes. The bureaucracy follow the Government...(*Interruptions*) Mr. Chairman, Sir, I would like to say one last thing...(*Interruptions*)

MR. CHAIRMAN: Your time is over...(*Interruptions*)

SHRI RAMJIVAN SINGH: I would like to say one last thing. It was said that this law will be misused against one specific community. I would like to assure the opposition that the Government which is based on the vote cannot go against anyone. In my political career I have seen one political party which at the time of its formation gave slogan that 'Tilak Taraju aur Talwar usko maro jute char'. However when it went to the people for election it proclaimed that it is party of all the sections of society and it wanted to take all the people with them. So the Government which is formed on the basis of vote cannot act against any community. If it acts like this the people will not tolerate and we will also not tolerate it. With these words, I support this Bill on behalf of Janta Dal (U).

SHRI DEBABRATA BISWAS (West Bengal): Mr. Chairman, Sir, I rise to oppose the bill for the passage of which the joint session of Parliament has been convened. This day will be recorded as a black day in the history. A question arises in my mind as to why the Government are so persistent for the passage of this bill.

19.00 hrs.

Since the day POTO was enforced in the form of an ordinance, the Government have not been able to deal with terrorist activities in Kashmir, Delhi or any other place with its use. All the Members of Parliament whether they are in the ruling party or in the opposition are unanimous to fight terrorism. Terrorism is prevailing in the country since long is being sponsored from across the border.



[Shri Debabrata Biswas]

All are victims of it are want to fight it for the security and unity of the country. In spite of all this, the Government are persisted on this issue.

This bill is being opposed by the National Human Rights Commission. Eminent journalists are opposing it in their editorials for the last four-five months. The Government made POTO as an issue in the last election, but lost. People are not in Government's favour on this issue. In spite of this the Government want to pass POTO. There is an answer to this in my mind, the Members sitting here may not agree to this but the fact remains that we want to run this country as per the wishes of USA. A mention has been made by the ruling party as well as opposition parties that the country is being run as per the wishes of the USA. Our economic, political and social laws will be enacted accordingly. After the terrorist attack on USA on 11th September, the USA made a declaration to start a fight against terrorism throughout the world and we are trying to enact this law against terrorism in pursuance of that declaration.

Nobody can deny the second point that has struck my mind. One may call it NDA Government or anything else but the fact is that it is a BJP Government which has no faith in democracy.

Sir, the third point that I would like to submit is that through POTO a fear psychosis is being created to frighten minorities so that they would be able to come to power again by winning elections. This is the intention of the Government.

Sir, the existing laws are enough for this purpose but the system is not right. Today the administrative system has been shattered and the police system is not proper. The Government do not want to implement the laws which are already in their hands. The system for their implementation is not proper. As a result of that excesses are being committed on dalits and laws enacted for their protection are not being implemented now the same notice will be entrusted with the job of implementation of this law.

Sir, today they are in trouble because the main opposition party is opposing POTO. It is not a matter of surprise for the Government rather a matter of rejoice for them, because they do not want to learn any lesson from the history and thus a law like POTO is being enacted. The Opposition parties are opposing, it but the Government do not want to take lesson from this.

Sir, the ruling party is in majority in this joint meeting to they will get the Bill passed in the House today, but the public will not support them on this account in elections. I therefore, oppose this bill.

[English]

SHRI E. AHAMED (Manjeri): Mr. Chairman, Sir, I oppose the proposed POTO Bill vehemently. My party, the Indian Union Muslims League, has already made it abundantly clear that we will oppose it tooth and nail. Due to paucity of time, I would like to confine my argument only to one or two points.

At the outset, I would like to ask the present Government, what is the mandate they have to bring this piece of legislation here? They have just faced the people in elections in four States and in all the four elections, BJP has been miserably defeated. When they have lost their mandate, how do they dare to come over to this House and create a manipulated mandate while making use of the provisions of the Constitution? If this House passes this piece of legislation, I have absolutely no doubt to say that this will be the darkest day in the democratic history of this country. Unfortunately, the provision of the Constitution has been misused. Once they have been defeated by the people in the last elections, held in four States where they have been campaigning in the name of this POTO, in the name of national security, and when the people have rejected the BJP Government, that Government has come here with the same piece of legislation. This, I would say, is a fraud committed on the people of this country by the BJP Government.

Secondly, one thing we are sure that this law is most likely to be misused. My friend Shri Sangma said, all laws are being misused. But I would like to take this opportunity to remind Shri Sangma that when a Draconian law is misused, it will affect, it will wreck thousands of families in this country. They must bear in mind that this is not an ordinary law.

This is a draconian law. This has been aimed against the political enemies. This has been aimed against the religious minorities. I am not saying about the religious minorities simply as a matter of argument. For the last several months, since the BJP came to power, you have been campaigning against them. All the Parties are allied with the BJP, the ultra-communal parties, the ultra-communal fundamentalist parties like the VHP, Bajrang Dal, RSS are campaigning against a particular community. A hate campaign is going on unnecessarily and without any justification they have been saying that all the Muslim organisations are communal organisations or anti-national organisations.

Sir, I would say that you have taken the POTO as a barometer to measure the nationalism of an individual. One cannot accept it. I have my nationalism. I have my commitment to this country. Who is this Government to

measure it and using this POTO as a barometer to say—"You are anti-national since you oppose this POTO and you are national only if you will support this POTO?" Who are these people to take monopoly of the nationalism and our commitment to the country? We cannot accept this.

MR. CHAIRMAN: Shri Ahamed, please wind up.

SHRI E. AHAMED: Sir, this is an important occasion to express my opinion. I may be given some time. I have to speak what we are feeling.

MR. CHAIRMAN: There is constraint of time.

SHRI E. AHAMED: Sir, I will take just one minute. What happened in Gujarat? It has been closely discussed. In Godhra in Gujarat, you have charged the accused people under POTO. But when thousands and thousands of people have been put to suffering in other parts of Gujarat, what did you do? When more than 800 people have been arrested there, you have not given any justification nor shown courtesy to bring those criminals under POTO? What happened in Gujarat?

MR. CHAIRMAN: Shri Ahamed, please wind up now. I cannot allow it.

SHRI E. AHAMED: Sir, please allow me for one minute. I will speak about Gujarat. If a man goes mad, you can chain him. But from what you have heard from the Chief Minister, if the chain goes mad, what can you do? In Gujarat the chains have gone mad and not the people. If the people will go mad, you can chain them. If the chain itself goes mad, you cannot do anything. That is why I say this.

MR. CHAIRMAN: Shri Ahamed, I am bound by the tyranny of the clock. Please wind up.

SHRI E. AHAMED: Sir, just one minute. I will abide by your direction. I would only say that I have one demand. I would like to state that in the interest of the country, in the interest of the nationalism and in the interest of the future of this country, the communal harmony and also the religious harmony, I would request everyone of you to please show it by rejecting this POTO *in toto*.

SHRI R.S. GAVAI (Maharashtra): Mr. Chairman, Sir, at the outset I strongly oppose this POTO Bill which is contrary to the spirit of the human dignity, liberty and equality. I will be very brief to indicate that I, on behalf of my Party, am strongly opposing this Bill.

Sir, much has been said by both the sides. I apprehend that the existing Bill is being misused. On the contrary, assurances from the Government side have been given that this Bill is not being misused. I have been hearing the speeches patiently. One can agree with me that there is a strong case being pleaded today that there is every possibility that this existing Bill will be misused.

It will be misused not only in future, but Shri Kapil Sibal, the hon. Member of Rajya Sabha, has given illustrations—the Bill is still at Ordinance stage and not an Act yet—and instances of how it is being misused. I may not narrate them again. At the same time, from the Government side, the Government of Maharashtra's legislations are being quoted and that toto more than a dozen times in their speeches as if the legislation passed by the Government of Maharashtra is a standard one. I do not think so. Though I am a supporter of that Government, I opposed such a legislation earlier and now also. At the same time, it is stated that the legislations in Maharashtra are the standard ones and the versions given by the Human Rights Commission and Law Commission are being ignored as if the legislation of the Maharashtra is more supreme than the version given by the Human Rights Commission and Law Commission.

Sir, there is no doubt that we are there to deal with terrorism. It should be curbed. But at the same time, national security is very paramount. I agree. Sir, national security and the security of the individual dignity, equality and liberty is a correlated terminology. If the individual of this country is not free, is not having the liberty, equality and dignity, how will we have the national security? I would say that there should be a good message which should go to the world. What do you mean by a good message? It is also a correlated term. Sir, it is said here:

"This Act is being condemned internationally on the pretext that this highlights the spirit of the international treaty and its obligation."

Sir, liberty was the goal during our Struggle of Independence. We got it and we set it. We are not there to keep what we have achieved during the Freedom Struggle; we are there to give it up.

Sir, the Constitution of India has assured us, every individual, dignity, liberty, equality, secularism and a society free from exploitation. So, it is not that the Constitution has given us only the Universal Declaration for the Human Rights. How can we give it up? My friends, Shri Chitharanjan....

MR. CHAIRMAN: Please wind up.

SHRI R.S. GAVAI: Sir, I wind up. We are not there at the cost of human liberty and dignity. I again oppose this Bill.

DR. JAYANT RONGPI (Autonomous District-Assam): Mr. Chairman, Sir, I stand here to oppose this POTO Bill on behalf of myself and on behalf of my party, the CPI (ML). Sir I was taken aback by the intensity of the misplaced political will of the Government to pass, to get through this piece of legislation.

19.20 hrs.

[MADAM VICE CHAIRMAN SHRIMATI MARGARET ALVA  
*in the Chair*]

On the earlier occasions, in the name of lack of political consciousness, in the name of lack of unity among the political parties, many important legislations, like the Women's Reservation Bill have been deferred again and again.

However, this time, even after it has defeated in the Rajya Sabha, the Government has called this Joint Sitting to pass this POTO. I would expect rather I would like to question the Government whether similar political will, will be expressed by the Government to call a Joint Sitting to pass the Women's Reservation Bill.

Madam, our Senior Member, Shri P.A. Sangma, said that he is from the North-East, which is the hotbed of insurgency or militancy problem. I also belong to that area, but I differ with his point of view. I would like to say very humbly that the other draconian laws, like TADA, MISA, have created more terrorists in the North-East than solving this problem. In the beginning, as per the Government record, there were only 2,000 ULFA cadres, but after these draconian laws were introduced, 5,000 ULFA cadres have surrendered and, still a couple of thousands are left. Therefore, this has proved that to fight terrorism, the law is not the solution.

We can take lessons from our own country. Terrorism in Punjab was contained not because of POTO, not because of TADA, not because of any draconian law, but because the people of Punjab stood unitedly to fight terrorism. It is the people of Punjab who defeated terrorism. If the Government is sincere in its will to fight terrorism, I think, there is consensus in this country. Everybody wants to fight terrorism, but there are differences in the political parties, in the Indian polity, and in the Indian society. The Law Minister was angry when somebody said that there are divisions. Why should

he be angry? He should look at his own Alliance. Even there is a division within the NDA on this POTO.

If we want to fight terrorism, then there should be unity and there is no doubt about it. However, if we want to fight terrorism, this type of draconian law will not serve the purpose. For that, the people of India should be united, and there should be a common will to fight terrorism. That cannot be achieved, if the communal agenda, the religious agenda, is followed to divide the people of India in the name of religion, caste and creed. If this continues, then people will never be united, and the purpose of fighting against terrorism will be defeated.

Therefore, I call upon the Government, I request the Government, to muster enough political courage to abandon the agenda of *Hindutva* or the agenda on communal and political lines, and to rather unite the people against terrorism and to chalk out a new course of action.

With these words, I firmly and with all sincerity and all the strength at my command, I protest; and I express, register, my strong opposition to POTO. Inside this Parliament, I assure you, with my limited strength, I will see that POTO is fought in every street, every nook and corner of the North-East region.

[*Translation*]

SHRI SANJAY NIRUPAM (Maharashtra): Madam Vice Chairman, I thank you for allowing me to speak for one minute in this historical meeting at the end. I, especially thank the House for this.

Today, I was very eager to tell a latest news in this House, that's why I made a request for allowing me to speak. I would like to say that a few months back the Maharashtra Government arrested a terrorist or a so called terrorist under POTO. Today at 2'O clock he was presented in the Sessions court of Mumbai. From the side of Maharashtra Government, the Government advocate Shri Ujjawal Nigam made an appeal and submitted an affidavit for withdrawal of POTO against Mohammad Afroj.

Through, this House I would like to ask a question to the leader of Opposition Shrimati Sonia Gandhi...(*Interruptions*) I would like to ask through Madam Vice Chairman...(*Interruptions*) I have to ask a question...(*Interruptions*)

MADAM VICE CHAIRMAN: Please take your seats.

...(*Interruptions*)

SHRI SANJAY NIRUPAM: Madam Vice Chairman, through you I would like to ask from the main opposition party as to why they are insisting on withdrawal of POTO against Mohammad Afroj who surrendered before police and admitted that his objective was to carry out terrorist activities in England, India and Australia...*(Interruptions)* I would like to know as to why POTO is being opposed to save terrorists like Afroj...*(Interruptions)* I have to conclude my speech. Please do not interrupt, the hon'ble Chairperson has allowed me to speak...*(Interruptions)* The Chair has allowed me to speak and thus I have a right to present my views here...*(Interruptions)*

*[English]*

SHRIMATI AMBIKA SONI (Delhi): Madam, Vice Chairman, he should take his words back...*(Interruptions)*

SHRIMATI RENUKA CHOWDHURY (Khammam): Madam, it should be deleted from the records...*(Interruptions)*

*[Translation]*

SHRI SANJAY NIRUPAM: What parliamentary convention or democratic tradition is this. Madam Chairperson has allowed me to speak and they are not allowing me to express my views...*(Interruptions)*

*[English]*

MADAM VICE CHAIRMAN: Please take your seats. You cannot come to the Well of the House.

...*(Interruptions)*

19.27 hrs.

*At this stage, Shri Raju Parmar and some other hon. Members came and stood on the floor near the Table.*

MADAM VICE CHAIRMAN: Please go back to your seats.

...*(Interruptions)*

19.28 hrs.

*At this stage, Shri Raju Parmar and some other hon. Members went back to their seats.*

MADAM VICE CHAIRMAN: Please sit down now.

...*(Interruptions)*

*[Translation]*

SHRI SHIVRAJ V. PATIL: Madam, I am on a point of order...*(Interruptions)*

SHRI SANJAY NIRUPAM: He is on point of order. Please listen to that ...*(Interruptions)*

*[English]*

SHRI SHIVRAJ V. PATIL: Madam, I am referring to rule 356. I would read that rule. It says:

"The Speaker, after having called the attention of the House to the conduct of a Member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other Members in debate, may direct him to discontinue in this speech."

Madam, I am saying as to how he can speak irrelevant things...*(Interruptions)* How does, what has happened in Mumbai, become relevant here?...*(Interruptions)* I would like to know as to how this has become relevant to this debate...*(Interruptions)* The rule says that irrelevant things should not be raised...*(Interruptions)* Simply because something has happened in Mumbai, does it become relevant?...*(Interruptions)* What is being spoken should have some relevance...*(Interruptions)* It is an exhaustive point...*(Interruptions)* If he is allowed to raise such irrelevant issues here, then other Members who are hoping to raise relevant points would not get their chance to do so.

My submission is that under the Rules, he should be asked to withdraw.

...*(Interruptions)*

SHRI SANJAY NIRUPAM: I will have to make my submission...*(Interruptions)*

*[Translation]*

Please let me conclude...*(Interruptions)*

*[English]*

MADAM VICE CHAIRMAN: Let him finish his submission and go back. I cannot ask him to leave.

...*(Interruptions)*

SHRI SANJAY NIRUPAM: How can I be asked to go away?...*(Interruptions)*

[Translation]

Please let me conclude...(Interruptions)

MADAM VICE CHAIRMAN: The BJP has given two minutes to you from their allotted time. More than two minutes have since passed. Please conclude now.

...(Interruptions)

SHRI SANJAY NIRUPAM: It has been told that the issue being raised by me here is not relevant...(Interruptions) I would like to say that an important issue like POTO is being discussed here...(Interruptions) Please let me conclude...(Interruptions)

[English]

MADAM VICE CHAIRMAN: Can I say something please. Can I not say anything?

...(Interruptions)

MADAM VICE CHAIRMAN: I am sorry, this is not the way. If there is anything objectionable, I will expunge it from the record. It will be looked into and expunged. What else can I say?

...(Interruptions)

MADAM VICE CHAIRMAN: Shri Nirupam, please conclude.

SHRI SANJAY NIRUPAM: I will conclude, Madam but I should be allowed to make my submission.

[Translation]

This is not the way...(Interruptions)

19.34 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

[English]

MR. DEPUTY SPEAKER: I will hear you. Please resume your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: I am on my legs. Will you please go to your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: Whatever is objectionable, unparliamentary and derogatory, I will expunge it. Please go to your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: Let me understand what it is. If you behave like this, how can I understand things. Please resume your seats.

...(Interruptions)

[Translation]

SHRI SANJAY NIRUPAM: In the end, I would like to say that you cannot tolerate criticism. POTO is being opposed to save terrorists. POTO is being opposed to save terrorists like Mohammad Afroj...(Interruptions)

...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Hon. Members, I will hear you. Please resume your seats first.

...(Interruptions)

MR. DEPUTY SPEAKER: If there is anything objectionable or unparliamentary or derogatory, I will expunge it from the records.

...(Interruptions)

MR. DEPUTY SPEAKER: I will re-look into the records. Please resume your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, please resume your seats now.

...(Interruptions)

MR. DEPUTY SPEAKER: We have already taken more than 7 hours.

...(Interruptions)

MR. DEPUTY SPEAKER: There are still a few more speakers. So, we will have to sit one to two hours more.

\*SHRI E. PONNUSWAMY (Chidambaram): Hon'ble Deputy Speaker, Sir, I thank you for giving me this rare opportunity to express the views of our Party, PMK, on the necessity of POTO.

Sir, I think Shri Atalji, our Hon'ble P.M. is the only Member who attended all the three joint sittings since Independence.

First, on May 9, 1961 as a Jan Sangh Member of Parliament for passing the Anti-Dowry Bill, when Nehruji wanted to give all the Members a second chance to express their view on the Bill.

Secondly, on May 16, 1978 as the External Affairs Minister in Late Shri Morarji Desai's Government for passing the Bank Commission's Bill.

And today (26.3.2002) as the Prime Minister of India for taking the co-operation of all the Members of both the Houses to enact a law against terrorism.

Sir, it is my considered opinion that the law should be sparingly used, as a last resort, after exploring all other existing channels of law, on terrorism.

It is our view that this law should not be used against political opponents by the States at the drop of hat or at the whims of the rulers.

We also feel that the centre alone should handle this law.

Sir, it is also the Government's responsibility to see that innocent people of this land, more especially the downtrodden and illiterate, who do not know anything about the laws of the land should not be punished by this law.

Sir, we have immense faith in our Hon'ble PM and we trust he will certainly take care of the innocent millions of India.

Hence we the PMK, headed by our Founder Leader Dr. Ramdoss, support his Bill, wholly and wholeheartedly.

\*SHRI MOHAN RAWALE (Mumbai South Central): Respected Sir, The purpose of POTO is to prevent Terrorism and violent terrorism. The views being expressed against this measure are politically motivated. Under POTO, the organisations indulging in ill-legal activities can be banned with immediate effect. No doubt, its provisions are stringent, but there is human aspect also in these provisions. That is why it will prove more effective. Under POTO any act affecting the unity and integrity, security or sovereignty of the Nation would come under the category of terrorism. The persons using bombs, dynamite, explosive material, chemicals and other such weapons to create terrorism would be treated as terrorists.

After Independence, Prevention of Terrorism Act was enacted in 1950. In July, 1971, MISA came into existence. In 1976, Disturbed Area Act and in 1977 Defence of India Act were enacted. In 1980, when late Smt. Indira Gandhi came into power again, National Security Act was passed. After the murder of Smt. Indira Gandhi, Shri Rajiv Gandhi came into power. In order to curb terrorism effectively and strongly, he got TADA passed in Parliament and had implemented the same. In order to fight terrorism, implementation of POTO is necessary in the interest of the country. Without implementing POTO, it would not be possible to wipe out terrorism from the country. Today the entire world has waged a war against terrorism. Need of the hour is to wage such a war against terrorism in our country also. If POTO is not passed by Parliament, it would definitely benefit the terrorists, and our security forces would get demoralised. I would like to tell the House that Maharashtra, Karnataka and Tamilnadu have got more stringent laws than POTO. In such circumstances, to oppose POTO is not justified.

The persons, who are alleging that POTO is anti-minority community, are the same, who had implemented draconian laws like TADA and MISA. Today efforts are being made in the country to mislead the country that POTO will be used against the minorities, and the people responsible for this thing are not illiterate. At present 13 States are being ruled by Congress. In remaining States also, NDA is not in power except Gujarat, Haryana, Jharkhand and Himachal Pradesh. It means that the right of implementation of POTO will be in the hands of Congress and other parties. In such circumstances, how can anybody question our intention that we would use POTO to suppress and harass the minorities.

You had introduced MISA in the name of the country's security but it was used to curb a democratic agitation and to put censor on Press. After that you had brought TADA and everybody knows how TADA was used. Today the people, who are supporting you in the matter of opposing POTO, are the same who had levelled the same charges on Congress at that time. Now, they are levelling charges on us. But I would like to say that POTO should not be opposed in order to play politics only. Today, we cannot even imagine how the entire country is affected by terrorism. Today, the danger from terrorism is not what we are looking, but there is danger of chemical terrorism and biological terrorism also. We have heard of Cyber terrorism also. In such a situation, we cannot wipe out terrorism from its roots without the help of a very very strong and stringent law like POTO. I would like to ask the opposition one question and that is does it want that terrorism activities should not be curbed? Does it want that no new measures should be taken to punish the terrorists as well as to deal with

[Shri Mohan Rawale]

them sternly? Today, not only the unity, integrity and sovereignty of the nation is in peril, the terrorists have thrown a challenge to the entire humanity. In UN Security Council the issue of terrorism was discussed and a Resolution was adopted by it in which all the countries were asked to take every possible step to deal with persons and organisations indulging in terrorists activities. But it is unfortunate that in India the opposition parties, particularly, Congress and Leftists are not prepared to face the truth in the context of terrorism.

Today, the activities of foreign conspirators are increasing day by day in the country. I think perhaps there is no city in the country today where the foreign conspirators have not made their entry. The number of terrorist outfits is increasing in the entire country. Once their number was very limited and the area of their activities was also limited. During the last 10 years new terrorists outfits have emerged and these are more dangerous and their area of activities is also very large. These outfits take the shelter of religious books for their activities of terrorism. They want that the entire world must follow the path of worship which they practise. That is why they are ready to wage Jihad everywhere. Such outfits consist of Lashkare-e-Toyeba, Jaish-e-Mohammad, Harkat-UI-Mujaheddin, Harkat-UI-Ansar, Al Umar Mujahaddin, etc. These are some of the major outfits. All these outfits are getting full support not only from Pakistan, but from certain other Muslim countries also, which are very rich countries. Their main aim is to disintegrate India. Pakistan wants to take revenge on India. It wants that Kashmir should cede from India so that it can retain POK with it. We should not allow its dreams to be fulfilled at any cost.

The existing laws to deal with terrorists are quite inadequate. If Police arrests 100 terrorists under those laws, it does not succeed in getting punished one or two terrorists even. The existing laws are unable to check the activities of terrorists. Under these laws it is not possible to even define terrorism. In this context the path being followed by the opposition is not of 'Rajneeti' but of 'Raj Aneeti'. Due to this very 'Aneeti' terrorism is raising its head continuously. It is very unfortunate that the Opposition is intentionally protecting this 'Aneeti' so that vote bank is not lost. They are concerned with their vote bank. They are not at all concerned where the country will go. They are giving preference to their vote bank more than the requirement. I would like to ask as to whether such type of 'Rajneeti' would help progress of the country, welfare of the society and protect the unity and integrity of the Nation.

So far as the question of misuse of this law is concerned, there is no law in the world which cannot be

misused. But if no law is enacted to fight the evil simply because of fear of its misuse, then the entire social order will get disturbed. Whether IPC is not misused by the Police? Whether all the existing laws are being used for good only? It must be ensured that the person responsible for the misuse of the law must be punished and such a provision does exist in POTO. In case the Indian Parliament continues to follow such negative path, then it will never be able to take the decisions which this country requires. Day by day the country is getting involved into serious problems, and the culprits and terrorists are becoming bold. If the country's politics does not come on the right track, the entire development will come to a stand still and maladministration will take such an alarming proportion that it will take decades to solve the problems of the country. Still there is time to stop the game being played with the 'Asmita' of the Nation. If it is not done, then it is certain that the Indian democracy will be endangered. The game of hide and seek in politics should not be played so far as the serious matter like country's security is concerned.

Now the time has come to deal with terrorism and religious fantasm with an iron hand. The Government will have to take an initiative in this direction. The advocates of human rights will also have to change their attitude. Protection of human rights should not be for the culprits only, but it is necessary for the oppressed and aggrieved persons also. It has become human tendency to show sympathy towards the terrorists who have been put behind the bars. Everybody expects that inhuman behaviour is not meted out to jailed terrorists, but he forgets the inhuman behaviour of these terrorists. Need of the hour is to show sympathy towards the victims of terrorism and not towards the terrorists who perpetrate it.

The incidents of murders and kidnapping have become the order of the day right from Kashmir to North-Eastern States of the country. One or two terrorists come, open the fire, kill some persons and then go scot free. Manipur, Nagaland and Tripura are so sensitive areas that hoisting of National Flag there is almost impossible. It is a cruel joke on the present system. Do these incidents not indicate the need of a stringent and effective law in the form of POTO to fight terrorism in the country?

POTO seeks to arm the agencies with power to detect and prevent terrorist activities, detain suspects and freeze properties and funds held by terrorists. Hence POTO is imperative for national security. A captured Al-Qaeda terrorist in Mumbai confessed recently that India's Parliament House was on a shortlist of Kamikaze targets though, you had guards to pocket one of India's most vulnerable public buildings.

Laws more severe than POTO have been enacted by Maharashtra and Karnataka ruled by the Congress Party alone or in coalition. Congress-held Madhya Pradesh, Rajasthan and Nagaland were shown early drafts of POTO by the Union Home Ministry and agreed to the provisions or suggested toughening them. West Bengal Chief Minister Buddhadev Bhattacharya had drafted a tough anti-terror law but had to drop it once his party, the CPM, began to oppose POTO. The mood of the people gathered outside Parliament House after the terrorist attack was that of concern and anger. Most people told that they wanted POTO to be passed without further delay.

The need of the hour is clear. The government and the Opposition must sink their differences. The Opposition's rejection of POTO was linked to the Uttar Pradesh Assembly elections. It felt that supporting POTO would alienate its Muslim voters. That is the worst way to abuse Muslims. Some of the finest Indian Army generals who have conducted counter-terrorism operations in J & K are Muslims. The TADA was enacted when the Congress was in power. It was misused against Muslims. POTO has more safeguards than TADA. And the country is more alert to human rights abuses than ever before.

Under the Maharashtra Control of Organised Crime Act the conviction rate is 78 per cent which only shows that the success or failure of any such special enactment ultimately rests with the investigation/enforcement agencies and the failure of the agencies cannot be attributed to the law itself. The success or failure of any stringent law ultimately rests with the enforcement agencies.

In 1996, the Criminal Law Amendment Bill was brought to replace TADA but since the said Bill did not have sufficient provision to meet the situation, the matter was referred to the Law Commission and the draft or the present Prevention of Terrorism Ordinance, 2001, was sent to the Government by the Law Commission. After its approval by the Consultative Committee of Parliament, POTO was promulgated by the President on October, 24, 2001. One of the salient features of the POTO was broadening of the definition of "terrorist act". While TADA was mainly concerned with punitive measures, POTO has been designed primarily as preventive measure. Fear of punishment under special laws is an effective deterrent to the commission of a terrorist crime. However, this is not true in the case of organised international terrorists who infiltrate as suicide squads. Hence, however deterrent the law is, it cannot by itself address the complex problem of cross-border terrorism. The ultimate solution lies in strengthening the intelligence capabilities and security measures along the LOC and other sensitive areas. Covert operations against terrorists and their camps

appear to be one of the ways to crush them. India has to fight its own war with terrorist groups. The Israelis have successfully guarded their borders with Lebanon using sophisticated vibration sensors, electronic devices and thermal imaging devices. We may also have to adopt some of these tactics.

The terrorists activities in J & K started increasing more so from 1988 onwards for want of any political solution, coming into foresight to solve the 'Kashmir' imbroglio. Between 1988 to March 1999 as many as 45,000 incidents of terrorists violence had taken place in J & K alone, which resulted in death of 20,500 civilians. Even the security personnel and friendly militants and political leaders became the 'soft targets' of the terrorists in J & K who were substantially backed from the people across the border. With the phenomenal rise of OSAMA BIN LADEN in mid-90s, the number of foreign terrorists operating in J & K out numbered the local extremists. The situation had come to such a pass that incidents of innocent civilians getting killed by the extremists without any provocation became the order of the day. Hence a need was increasingly felt to promulgate a stringent legislation which would be able to effectively deal with the incidents of cross border terrorism, which was not just confined to J & K alone, but it had acquired a serious dimension in the seven North-Eastern States of India where the banned outfits like ULFA, BODO, etc. started killing innocent people and destruction of properties like throwing petrol bomb on oil refineries in Assam etc.

The Law Commission of India had organised two marathon seminars on 20th December, 1999 and 29th December, 2000 at New Delhi wherein the large number of legal luminaries across the country, many retired and incumbent high ranking police officers, retired judges and human rights activists participated in them. The Law Commission had in unequivocal terms advocated the necessity of a special law to fight the terrorist activities, keeping in mind the extraordinary situation prevailing in the country, which required special measures. Even the Supreme Court of India has held in *State of Rajasthan Vs. Union of India* (1978 1 SCR P 1) that "merely because the power may sometimes be abused, is no ground for denying the existence of power".

In the working paper prepared by the Law Commission a reference has also been made of Section 701 of 'The US Anti-terrorism & Effective Death Penalty Act, 1996' which defines federal crime of terrorism dealing with aircraft, airports, biological weapons, nuclear material, destruction of government properties, including the communication lines, etc. The provision contained section 805 of US Act relating to deterrent sentence in case of damaging a federal interests. Finally, these two provisions



[Shri Mohan Rawale]

from the American law that have been borrowed and have been incorporated in the form of causing any damage to "supplies or services essential to the life of the community" have been added in terrorist related activities in Section 3(1) (a) of POTO. The Law Commission also felt it was desirable to make the proposed anti-terrorism legislation in such way that the police officer wrongly applying POTO would be made accountable.

In the end, on behalf of my Party—Shiv Sena Support POTO whole heartedly and request the Opposition to rise above from party politics and extend their support to this very important and necessary measure.

MR. DEPUTY SPEAKER: Please cooperate with me. We have to pass the Bill.

...(Interruptions)

SHRI CHANDRA SHEKHAR: Mr. Deputy Speaker, Sir, I have to make a request to you...(Interruptions)

MR. DEPUTY SPEAKER: There is a lot of noise in the House. Order, please. I am asking the hon. Members, who are standing, to resume their seats.

...(Interruptions)

SHRI CHANDRA SHEKHAR: Mr. Deputy-Speaker, Sir, we were asked to be present here at 5 p.m. for voting. It is already 7.40 p.m. It is high time that we should ask the Home Minister to reply to the debate, and then have voting...(Interruptions)

MR. DEPUTY SPEAKER: I will get the sense of the House, and then we will do it accordingly.

[Translation]

SHRI MULAYAM SINGH YADAV: Mr. Deputy Speaker, Sir in the morning a meeting was held under your chairmanship and a decision was taken to complete the debate by 5 O'clock. At 4.30 the hon'ble Minister of Home Affairs will express his views in this regard. Now so much time has passed and we have to chalk out our programme on this basis. As per the opinion of Members, the proceedings may be continued tomorrow or concluded now. The decision for today should have not been taken if it was not be done today. Now conclude this.

MR. DEPUTY SPEAKER: Chandra Shekharji has also given the same suggestion.

[English]

Is it the sense of the House that now we have the reply by the hon. Home Minister and then voting?

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY SPEAKER: All right. Then I will call the hon. Home Minister to reply.

...(Interruptions)

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT, MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF OCEAN DEVELOPMENT (DR. MURLI MANOHAR JOSHI): Mr. Deputy-Speaker, Sir, the hon. Prime Minister is also expected to intervene...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, the hon. Prime Minister wanted to intervene, and he is expected to come any moment.

DR. MURLI MANOHAR JOSHI: In the meanwhile, Sir, you may call another speaker to participate.

MR. DEPUTY SPEAKER: In the meanwhile, I cannot do that. There are seven to eight more speakers. If I allow one or two, again there will be a problem.

...(Interruptions)

MR. DEPUTY SPEAKER: Or, we will adjourn the House and continue tomorrow. Otherwise, it will be difficult.

...(Interruptions)

SHRI A.C. JOS (Trichur): Sir, let the Home Minister start his reply. When the Prime Minister comes, he may also intervene...(Interruptions)

MR. DEPUTY SPEAKER: Now, let the hon. Home Minister may kindly reply.

...(Interruptions)

MR. DEPUTY SPEAKER: There are 7 or 8 more hon. Members to speak. I cannot allow anybody now. Please forgive me.

...(Interruptions)

MR. DEPUTY SPEAKER: Please forgive me. Shri Athawale, please resume your seat.

...(Interruptions)

MR. DEPUTY SPEAKER: It is the sense of the House that the hon. Home Minister should reply and the debate should end here. I am bound by the sense of the House.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Home Minister may kindly reply now.

...(Interruptions)

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): Sir, I will start. But the Prime Minister wanted to intervene. If the hon. Prime Minister comes in between, then, I will sit down just for him to intervene. You may please permit it....(Interruptions)

MR. DEPUTY SPEAKER: That would be rather difficult. If you are replying and in-between he wants to intervene, that would be difficult. That is rather difficult.

...(Interruptions)

SHRI L.K. ADVANI: He wants to intervene. He is coming for that. It was communicated to him that there are many more hon. Members to speak...(Interruptions) Sir, I will do as you direct...(Interruptions) If you direct me to reply now, I will do it...(Interruptions)

MR. DEPUTY SPEAKER: The hon. Home Minister is replying. Please resume your seats.

...(Interruptions)

[Translation]

SHRI L.K. ADVANI: Mr. Speaker, Sir, in the morning today I promised Shri Mulayam Singh Yadav to reply to it in Hindi though I was speaking in English at that time. I am sorry that use of English in my speech was criticised here much. It has been sated that the person who does not respect his mother tongue cannot do anything for the country. Sir, this is my weakness that my mother tongue is not Hindi. My mother tongue in Sindhi.

SHRI MULAYAM SINGH YADAV: You can speak in Sindhi.

SHRI L.K. ADVANI: Medium of my education was English and I have learnt Hindi with my efforts...(Interruptions)

[English]

Sir, the hon. Prime Minister has come. Will you permit him to intervene now?...(Interruptions)

[Translation]

MR. DEPUTY SPEAKER: Hon'ble Prime Minister has requested for a little intervention. I have called him here to raise his points if House allows me to do so. Then the Minister of Home Affairs will reply to this.

THE PRIME MINISTER (SHRI ATAL BIHARI VAJPAYEE): Mr. Deputy Speaker, Sir, I did not intend to take part in this debate...(Interruptions)

[English]

MR. DEPUTY SPEAKER: We are already late. Please give him a patient hearing.

...(Interruptions)

[Translation]

SHRI ATAL BIHARI VAJPAYEE: But when I heard and read that the leader of Opposition, Shrimati Sonia Gandhi had made a mention especially about me then clarification on it became necessary. I do not know whether all the hon'ble Members have heard those words during noise and uproar in the House on that day and I felt that mention of my name is being made in some context. When I read her speech afterwards I felt that this mention is not made just in some context but is important part of her speech. I would like to quote her words:

[English]

"The Prime Minister, as the head of this Government, has to decide whether his primary duty is to protect the welfare of the people of India for to succumb to the internal pressure of his Party and its sister organizations."

[Translation]

What does it mean? What is the intention of Shrimati Sonia Gandhi behind saying so. She has reminded me about my primary duty as if other duties are not that important. She has nothing to do with that whether I am bowing to the pressure from Parivar and discharging my duties or not. In her opinion the only criteria of my duty is that whether I am yielding to the pressure from any concerned organisations. This is our internal matter and I ask Sonaji not to interfere in that. I am not Prime

[Shri Atal Bihari Vajpayee]

Minister due to the favour of Congress Party but I am here in spite of opposition of Congress. I will be Prime Minister till people of this country are in my favour and what is the need of taking that much interest about me. Further there is question.

[English]

“Will he be submissive and weak in his leadership or will he uphold the prestige of the high office he holds?”

[Translation]

What is intention behind that? What does she mean while saying so. The allegation that I am working under pressure is wrong.

Mr. Deputy Speaker, Sir, I do not work under any pressure. My life as Parliamentarian is its proof. Just now I was reading my speech delivered in joint meeting in 1961 which was convened to discuss the issue of dowry. I opposed dowry system at that time. Later on during discussion I had to hear that I was conservative and believed in old traditions otherwise, then why dowry system was being opposed by me?

SHRI MULAYAM SINGH YADAV: Neither you accepted dowry nor given dowry.

SHRI ATAL BIHARI VAJPAYEE: Mr. Deputy Speaker, Sir, this incident occurred in 1961. For the first time in 1957 I was elected to Lok Sabha and was in Opposition. I do not know as to what would have happened if I had worked under pressure of somebody. Working under pressure of somebody means...*(Interruptions)* Why are you so much worried that I should not work under pressure. Just now it was being said that I am under pressure of Parivar. Members of left parties allege that we are working under pressure of USA and other foreign powers. Then how my party and allies are supporting me? What is its propriety? They all know that I do not work under any pressure. In spite of opposition from all over the world we performed nuclear tests. In this House I can tell in details the manner in which a former Prime Minister acted in the matter of nuclear test. Once pit was dug for nuclear tests, tunnel was ready and date of conducting test was fixed and at the last moment the programme was cancelled due to external pressure. I do not work under pressure...*(Interruptions)* Please keep quiet. There is a limit to hear all this.

Mr. Deputy Speaker, Sir, during Kargil War USA President Clinton invited me to New York and Washington. He told that Prime Minister of Pakistan had come over

there and I should also come there to discuss the matter with them. But I refused and told that this matter could not be discussed till an inch of Indian land is in the possession of Pakistan. I did not go to USA, or work under their pressure...*(Interruptions)* Why are they so disturbed. What is the meaning of interrupting my speech. Truth is bitter and you cannot hear that. Further more is there.

[English]

His moment of reckoning has come.

[Translation]

This is the speech of the leader of Opposition. Such words have been used against Prime Minister. What is their intention? What is the meaning of words that day of my reckoning has come. I am taking to examinations daily. I am in this Parliament since long. Since when Soniaji did not know anything about politics. Now I am being put in the dock. Has she any right...*(Interruptions)*

[English]

MR. DEPUTY SPEAKER: Order, please.

...*(Interruptions)*

MR. DEPUTY SPEAKER: I appeal to all of you to please resume your seats.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Let me regulate the House.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Al the hon. Members may please resume their seats.

...*(Interruptions)*

MR. DEPUTY SPEAKER: I appeal to all of you to resume your seats. If there is anything, we can certainly sort it out.

...*(Interruptions)*

MR. DEPUTY SPEAKER: Will you please resume your seats?

...*(Interruptions)*

MR. DEPUTY SPEAKER: May I request all of you to resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: All the hon. Members may please resume their seats. If there is anything objectionable or anything that has to be sorted out, we can hear that and settle. Now, please go to your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: I appeal to you to resume your seats. If there is anything that is to be settled, we can settle it if you cooperate with the Chair. Please resume your seats now.

...(Interruptions)

MR. DEPUTY SPEAKER: Will you please resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: I appeal to all the Whips and the Leaders to please cooperate with the Chair. If there is anything objectionable we can talk and settle it. With you please resume your seats? I appeal to all the Whips and all the Leaders. Please resume your seats now.

...(Interruptions)

20.00 hrs.

MR. DEPUTY SPEAKER: Mr. Prime Minister you may continue now.

...(Interruptions)

[Translation]

SHRI ARJUN SINGH (Madhya Pradesh): Mr. Deputy Speaker, Sir I would like to say something...(Interruptions)

SHRI ATAL BIHARI VAJPAYEE: I could not hear anything...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Shri Arjun Singh, you can come here and speak.

...(Interruptions)

20.01 hrs.

*At this stage Shri Prabhunath Singh, Shri S.S. Ahluwalia, Shri Chandrakant Khaire and some other hon. Members came and stood near the Table.*

[English]

MR. DEPUTY SPEAKER: It is only point of order. Please help me. I will rule it out.

...(Interruptions)

20.02 hrs.

*At this Stage Shri Sontosh Mohan Dev, Dr. Raghuvansh Prasad Singh and some other hon. Members came and stood near the Table.*

[English]

MR. DEPUTY SPEAKER: Dr. Raghuvansh Prasad Singh, please go back to your seat. What is this going on with all the leaders?

...(Interruptions)

MR. DEPUTY SPEAKER: What is your point of order? Hon. Prime Minister will yield only to a point of order.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members please hear me for a minute. Why are you not hearing me?

...(Interruptions)

20.04 hrs.

*At this Stage Shri Prabhunath Singh, Shri S.S. Ahluwalia, Shri Chandrakant Khaire and some other hon. Members went back to their seats.*

MR. DEPUTY SPEAKER: Hon. Prime Minister is prepared to hear him. Please take your seats.

...(Interruptions)

20.05 hrs.

*At this Stage Shri Sontosh Mohan Dev, Dr. Raghuvansh Prasad Singh and some other hon. Members went back to their seats.*

...(Interruptions)

MR. DEPUTY SPEAKER: You are not even hearing. Then, what is the fun of my talking?

...(Interruptions)

MR. DEPUTY SPEAKER: Prime Minister is not yielding.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, will you please resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: Prime Minister has agreed that Shri Arjun Singh will speak for two minutes. Hon. Members' will you please resume your seats?

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Members, please resume your seats.

...(Interruptions)

MR. DEPUTY SPEAKER: Hon. Prime Minister has agreed to yield to Shri Arjun Singh. So, Shri Arjun Singh will speak for two minutes. He has yielded to him. So, please resume your seats. Shri Bagrodia, please resume your seat.

...(Interruptions)

MR. DEPUTY SPEAKER: I would like to inform all Leaders, Whips and hon. Members that hon. Prime Minister has agreed to yield to him for two minutes. Please patiently hear him and then the Prime Minister will speak. Order please. Hon. Members you please take your seats.

May I request Sardar Buta Singh to take his seat?

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Pramod Mahajan, please tell your Members to take their seats.

...(Interruptions)

MR. DEPUTY SPEAKER: Shri Priya Ranjan Dasmunsi, please tell your Members to take their seats. The hon. Prime Minister has agreed to yield to Shri Arjun Singh for two minutes. Then, the hon. Prime Minister will continue with his speech. I would request you to maintain order in the House.

[Translation]

SHRI ARJUN SINGH (Madhya Pradesh): Mr. Deputy Speaker, Sir, I do not feel elated to come over here and whatever I am saying here, I am saying with a heavy heart. This is the place where the Constitution of India was framed. This is the place where the freedom fighters of India gave a final shape to their struggle in the form of the Constitution for the country. But with distress I say here that the way...(Interruptions)

THE MINISTER OF YOUTH AFFAIRS AND SPORTS (KUMARI UMA BHARATI): Mr. Deputy Speaker, Sir, the hon. Member is delivering a speech...(Interruptions)

[English]

MR. DEPUTY SPEAKER: Shri Sanjay Nirupam, what are you doing? I am trying to control the House. I seek the co-operation of all leaders in maintaining order.

[Translation]

SHRI ARJUN SINGH: What else he will do in two minutes? Shall he chant mantra...(Interruptions)

[English]

MR. DEPUTY SPEAKER: What is this? The hon. Prime Minister will speak now. Already, we are late. We will take another one-and-a-half hours.

[Translation]

SHRI ARJUN SINGH: Mr. Deputy Speaker, Sir, there are certain things of discipline. There are certain things related to the dignity and decorum of the House. I feel that dignity of the House has been violated and that is why I want to make a request to this august House and the hon. Prime Minister. The hon. Prime Minister has established a good convention by giving me a chance to speak. I extend my thanks to him, but Sir, the position of the leader of Opposition in the House should also not be ignored. I feel that the way the hon. Prime Minister has expressed his dissent over the words uttered by the leader of the Opposition, does not befit him. This is my view...(Interruptions)

SHRI ATAL BIHARI VAJPAYEE: Mr. Deputy Speaker, Sir, you may kindly check if I have used any unparliamentary word in my speech. Kindly expunge it from the Proceedings, I would have no objection. Now, they're objecting, to my style, but now at this age, it is not possible for me to change my style...(Interruptions) Shri Jawaharlal Nehru had accepted this style and I did

not hear any objection from the next generation too as I heard from the written statement...*(Interruptions)* I have not gone through Shrimati Sonia Gandhi's entire speech. I am quoting it.

*[English]*

"There is, I am afraid, neither moral integrity, nor sincerity of purpose among those who are trying to force this law on the nation today."

*[Translation]*

What is this 'moral integrity'? What does it mean? If in the treasury benches...*(Interruptions)* Shrimati Sonia Gandhi should apologise for such words. In my long Parliamentary career, I have never used slang language, nor have I ever behaved improperly, but the people who are preaching us...*(Interruptions)*

Mr. Deputy Speaker, Sir, these allegations are made with regard to POTO. Out integrity is being doubted, people are talking of bonafides. If they bring TADA it is all right, if they bring MISA, it is all right. At that time we did not doubt their integrity and that is why I am pained. If morality cannot be established by majority then should we expect that it will run by minority. I was going to praise Sonia ji on one point. In the same speech, she has said that they would be with us in our fight against terrorism, today and always. But thereafter, she waged a war against me. These are personal allegations. These are not policy related allegations, nor are they related to any violation of principles. It is an attack on my personality, which I would never bear...*(Interruptions)*

I have only two options—either I should adopt the path of welfare of the people, or act under pressure. Now who will decide this? It is the people who have given me this position and if I work under pressure, my friends, my party will leave me. The Leader of Opposition need not tell me whether I should work under pressure or quit. I am trying to serve the country in my own way and would continue to do so in future also. But I shall have to reply to the objectionable comments made against me. Mr. Speaker, Sir, I am requesting you...*(Interruptions)*

MR. DEPUTY SPEAKER: I am Deputy Speaker.

SHRI ATAL BIHARI VAJPAYEE: Mr. Deputy Speaker, Sir, I am still requesting you if I have used any unparliamentary word, that may be expunged from my speech...*(Interruptions)* why not? Then whatever pandemonium they have created here, was useless...*(Interruptions)*

SHRI L.K. ADVANI: Mr. Deputy Speaker, Sir, I honour the sentiments of the House. I do not think that I have to add anything to the speeches made in favour of POTO and against it.

I have been asked to give information regarding one fact as to how many people have been arrested under POTO, during the last five months. So far information I have received, 18 people have been arrested in four cases under POTO. One case relates to attack on Parliament, in which four persons have been arrested under POTO. In the second case 4.28 kgs. of RDX was recovered and Rs. 35 lakhs cash were recovered in hawala and many more explosive material were recovered. Six people were arrested in this connection. In the third case in Delhi, six people—five Pakistanis and one Bangladeshi having arms and ammunitions, were arrested. All the six culprits are involved in the attack in Kolkata. In the fourth case, two persons of the Peoples' Liberation Army of Manipur were arrested. These are four cases in Delhi where 18 people were arrested.

In Jammu and Kashmir 91 people have, of course, been arrested under POTO. I do not have the details with regard to their nationality. One case under POTO has been reported from Maharashtra, about which we have received information that the Government of Maharashtra have withdrawn the said case that was filed under POTO.

I am of the view that a Joint sitting of a Joint Session is called when the two Houses do not agree on one point and thus it is decided by taking decision through vote in the Joint Session. I would request the august House to initiate this action. I express my gratitude and thanks to all those hon. Members, who participated in this debate.

*[English]*

MR. DEPUTY SPEAKER: The question is:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith, as passed by Lok Sabha and rejected by Rajya Sabha, be taken into consideration for the purpose of deliberating on the Bill."

SHRI BASU DEB ACHARIA: Mr. Deputy Speaker, Sir, we want division.

MR. DEPUTY SPEAKER: All right, Let the Lobbies be cleared—

There will be division by distribution of 'Aye' and 'No' slips in accordance with Rule 376AA of the Rules of

Procedure and Conduct of Business in Lok Sabha. The Secretary-General may now announce the procedure with regard to division by distribution of slips.

SECRETARY-GENERAL: Kind attention of hon. Members is invited to the procedure regarding voting by distribution of 'Aye' and 'No' slips. A single slip will be given to each hon. Member at the time of division. The slip on which matter is printed in green ink is meant for recording of vote for 'Ayes' and that printed in red ink for recording of vote for 'Noes'.

Hon. Members are requested to write legibly the following details on the slip at the time of recording votes: (i) Name; (ii) Division Number (this will be the same as the Division Number allotted to the Member in the Lok Sabha or Rajya Sabha); and (iii) House to which he belongs.

MR. DEPUTY SPEAKER: There are three slips: 'green' for 'Aye'; 'red' for 'No'; and 'golden' for 'Abstention'.

MR. DEPUTY SPEAKER: Now, the Lobbies have been cleared.

The question is:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith, as passed by Lok Sabha and rejected by Rajya Sabha, be taken into consideration for the purpose of deliberating on the Bill."

The Lok Sabha divided:

DIVISION NO. 1

20.40 hrs.

AYES

A. Narendra, Shri  
Abdullah, Shri Omar  
Acharya, Shri Prasanna  
Adhi Sankar, Shri  
Aditya Nath, Yogi  
Adsul, Shri Anandrao Vithoba  
Advani, Shri L.K.  
Agarwal, Shri Lakshiram  
Agarwal, Shri Ramdas  
Agarwalla, Shri Parmeshwar Kumar  
Agniraj, Shri S.

Ahluwalia, Shri S.S.  
Ananth Kumar, Shri  
Angle, Shri Ramakant  
Apte, Shri B.P.  
Argal, Shri Ashok  
Arya, Dr. (Shrimati) Anita  
Atkinson, Shri Denzil B.  
Azad, Shri Kirti Jha  
Baal, Shri T.R.  
Bachani Lekhraj, Shri  
'Bachda', Shri Bachi Singh Rawat  
Badnore, Shri Vijayendra Pal Singh  
Bainda, Shri Ramchander  
Bais, Shri Ramesh  
Baitha, Shri Mahendra  
Bakht, Shri Sikander  
Banerjee, Shrimati Jayashree  
Bangaru Laxman, Shri  
Barwala, Shri Surendra Singh  
Behera, Shri Padmanava  
Bhagat, Prof. Dukha  
Bhargava, Shri Girdhari Lal  
Bishnoi, Shri Jaswant Singh  
Bora, Shri Indramoni  
Brahmanaiah, Shri A.  
C. Suguna Kumari, Dr. (Shrimati)  
Chakravarty, Shrimati Bijoya  
Chandel, Shri Suresh  
Chandran, Shri S.S.  
Chaturvedi, Shri T.N.  
Chaubey, Shri Lal Muni  
Chaudhary, Shri Haribhai  
Chaudhary, Shri Ram Tahal

Chaudhri, Shri Manibhai Ramjibhai

Chauhan, Shri Nandkumar Singh

Chauhan, Shri Shriram

Chautala, Shri Ajay Singh

Chikhalia, Shrimati Bhavnaben Devrajibhai

Chinnasamy, Shri M.

Choudhary, Shri Nikhil Kumar

Choudhry, Shri Padam Sen

Chouhan, Shri Nihal Chand

Chouhan, Shri Shivraj Singh

D'Souza, Dr. (Shrimati) Beatrix

Daggubati, Shri Ramanaidu

Dahal, Shri Bhim

Dalit Ezhilmalai, Shri

Dattatreya, Shri Bandaru

Dave, Shri Anantray Devshanker

Delkar, Shri Mohan S.

Deo, Shri Bikram Keshari

Deshmukh, Shri Nana (Nominated)

Devi, Shrimati Kailasho

Dhikale, Shri Uttamrao

Dhinakaran, Shri T.T.V.

Dhindsa, Shri Sukh Dev Singh

Dhyani, Shri Manohar Kant

Diler, Shri Kishan Lal

Diwathe, Shri Namdeo Harbaji

Durai, Shri M.

Elangovan, Shri P.D.

Fernandes, Shri George

Gadde, Shri Ram Mohan

Gadhavi, Shri P.S.

Gandhi, Shri Dilipkumar Mansukhlal

Gandhi, Shrimati Maneka

Gangwar, Shri Santosh Kumar

Gautam, Shri Sangh Priya

Gautam, Shrimati Sheela

Gavit, Shri Ramdas Rupala

Gawali, Kumari Bhavana Pundlikrao

Geete, Shri Anant Gangaram

Gehlot, Shri Thawar Chand

Giluwa, Shri Laxman

Goel, Shri Vijay

Gohain, Shri Rajen

Goyal, Shri Vedprakash P.

Gudhe, Shri Anant

Gupta, Prof. Chaman Lal

Gyamtso, Shri Palden Tsering

Haque, Mohammad Anwarul

Hussain, Chowdhary Talib

Hussain, Shri Syed Shah Nawaz

Indira, Shrimati S.G.

Indora, Dr. Sushil Kumar

Jadhav, Shri Suresh Ramrao

Jag Mohan, Shri

Jagannath, Dr. Manda

Jagathrakshakan, Dr. S.

Jai Prakash, Shri

Jain, Shri Pusp

Jaiswal, Dr. M.P.

Jaiswal, Shri Shankar Prasad

Jaitley, Shri Arun

Jatiya, Dr. Satyanarayan

Javiya, Shri G.J.

Jayaseelan, Dr. A.D.K.

Jethmalani, Shri Ram

Jha, Shri Raghunath

Jigajinagi, Shri Ramesh C.

Joshi, Dr. Murl Manohar



Joshi, Shri Kailash  
Joshi, Shri Manohar  
Judev, Shri Dilip Singh  
Kadar, Shri M.A.  
Kaliappan, Shri K.K.  
Kamaraj, Shri R.  
Kamble, Shri Shivaji Vithalrao  
Kannappan, Shri M.  
Kanungo, Shri Trilochan  
Kashyap, Shri Bali Ram  
Kaswan, Shri Ram Singh  
Katara, Shri Babubhai K.  
Kataria, Shri Rattan Lal  
Kathiria, Dr. Vallabhbbhai  
Katiyar, Shri Vinay  
Kaur, Shrimati Gurcharan  
Kaushal, Shri Raghuvir Singh  
Kaushal, Shri Swaraj  
Khaire, Shri Chandrakant  
Khan, Shri Hassan  
Khandelwal, Shri Vijay Kumar  
Khanduri, Maj. Gen. (Retd.) B.C.  
Khanna, Shri Vinod  
Khunte, Shri P.R.  
Khurana, Shri Madan Lal  
Kovind, Shri Ram Nath  
Kriplani, Shri Shrichand  
Krishnamraju, Shri  
Krishnamurthy, Shri K. Balarama  
Krishnamurthy, Shri K.E.  
Krishnan, Dr. C.  
Krishnaswamy, Shri A.  
Kulaste, Shri Faggan Singh  
Kumar, Shri Arun  
Kumar, Shri V. Dhananjaya  
Kumarasamy, Shri P.

Kuppusami, Shri C.  
Kusmaria, Dr. Ramkrishna  
Lakshmi Prasad, Dr. Y.  
Libra, Shri Sukhdev Singh  
M. Master Mathan, Shri  
Mahajan, Shri Pramod  
Mahajan, Shri Y.G.  
Mahajan, Shrimati Sumitra  
Maharia, Shri Subhash  
Mahtab, Shri Bhartruhari  
Mahto, Shrimati Abha  
Maitreyan, Dr. V.  
Majhi, Shri Parsuram  
Malaisamy, Dr. K.  
Malhotra, Dr. Vijay Kumar  
Mallik, Shri Jagannath  
Mallikarjunappa, Shri G.  
Malyala, Shri Rajaiah  
Man Singh, Rao  
Mandal, Shri Brahma Nand  
Mandlik, Shri Sadashivrao Dadoba  
Mane, Shri Shivaji  
Mane, Shrimati Nivedita  
Mangeshkar, Ms. Lata  
Manjay Lal, Shri  
Manjhi, Shri Ramjee  
Mann, Shri Zora Singh  
Maran, Shri Murasoli  
Meena, Shrimati Jas Kaur  
Meghwal, Shri Kailash  
Mehta, Shri Lalitbhai  
Mehta, Shrimati Jayawanti  
Mishra, Shri Dina Nath  
Mishra, Shri Kalraj  
Mishra, Shri Ram Nagina

Mishra, Shri Shyam Bihari  
 Mohale, Shri Punnu Lal  
 Mohite, Shri Subodh  
 Mohol, Shri Ashok N.  
 Mookherjee, Shri Satya Brata  
 Moorthy, Shri A.K.  
 Mullana, Shri Faqir Chand  
 Munda, Shri Kariya  
 Muni Lall, Shri  
 Murmu, Shri Salkhan  
 Murthi, Shri M.V.V.S.  
 Murthy, Shri M. Rajasekara  
 Murugesan, Shri S.  
 Nagmani, Shri  
 Nahata, Shrimati Jayaprada  
 Naidu, Shri M. Venkaiah  
 Naik, Shri Ali Mohd.  
 Naik, Shri Ram  
 Naik, Shri Shripad Yasso  
 Nandy, Shri Pritish  
 Narayanan, Shri P.G.  
 Narendra Mohan, Shri  
 Nayak, Shri Ananta  
 Niraikulathan, Shri S.  
 Nirupam, Shri Sanjay  
 Nishad, Capt. Jai Narain Prasad  
 Nitish Kumar, Shri  
 Oram, Shri Jual  
 Padmanabham, Shri Mudragada  
 Palanimanickam, Shri S.S.  
 Panda, Shri B.J.  
 Pandey, Shri Ravindra Kumar  
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 Pandian, Shri P.H.

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 Parmar, Shri Kripal  
 Parste, Shri Dalpat Singh  
 Parthasarathi, Shri B.K.  
 Passi, Shri Raj Narain  
 Paswan, Dr. Sanjay  
 Paswan, Shri Ram Vilas  
 Paswan, Shri Ramchandra  
 Paswan, Shri Sukdeo  
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 Patel, Dr. Ashok  
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 Patel, Shri Deepak  
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 Patel, Shri Mukesh R.  
 Patel, Shri Praful  
 Patel, Shri Prahlad Singh  
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 Patil (Yatnal), Shri Basangouda R.  
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Radhakrishnan, Shri Pon  
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Ramshakal, Shri  
Rana, Shri Kashiram  
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Rashid, Mirza Abdul  
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Rawat, Shri Pradeep  
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Reddy, Shri Solipeta Ramachandra  
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Rudy, Shri Rajiv Pratap  
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Sharma, Dr. Mahesh Chandra	Sinha, Shri Yashwant
Sharma, Shri Anil	Sirigireddy, Shri Rama Muni Reddy
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Shukla, Shri Rajeev	Solanki, Shri Gopalsinh G.
Shyam Lal, Shri	Somaiya, Shri Kirit
Sikdar, Shri Tapan	Soundararajan, Shri P.
Singh Deo, Shrimati Sangeeta Kumari	Sreenivasan, Shri C.
Singh 'Lalan', Shri Rajiv Ranjan	Srikantappa, Shri D.C.
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Singh, Capt. (Retd.) Inder	Subbian, Shri Ka. Ra.
Singh, Ch. Tejveer	Sukhbir Singh, Shri
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Singh, Shri Bahadur	Swami, Shri I.D.
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 Yadav, Shri Hukumdeo Narayan

Yadav, Shri Jagdambi Prasad  
 Yadav, Shri Ramakant  
 Yadav, Shri Sharad  
 Yerrannaidu, Shri K.  
 Zawma, Shri Vanlal

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 Ahamed, Shri E.  
 Ajaya Kumar, Shri S.  
 Akhilesh Das, Dr.  
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 Alva, Shrimati Margaret  
 Ambedkar, Shri Prakash Yashwant  
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 Chitharanjan, Shri J.  
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 Choudhury, Shri A.B.A. Ghani Khan  
 Chowdhary, Shri Adhir

Chowdhary, Shrimati Santosh  
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 Das, Dr. M.N.  
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 Gogoi, Shri Dip

Gowda, Shri G. Putta Swamy  
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 Gupta, Shri Prem Chand  
 Hamid, Shri Abdul  
 Hasan, Shri Munavvar  
 Hassan, Shri Moinul  
 Heptulla, Dr. (Shrimati) Najma  
 Hiphei, Shri  
 Ibrahim, Shri C.M.  
 Jaffer Sharief, Shri C.K.  
 Jaiswal, Shri Jawahar Lal  
 Jaiswal, Shri Shriprakash  
 Jalappa, Shri R.L.  
 Jamir, Shri C. Apok  
 Jos, Shri A.C.  
 Kalmadi, Shri Suresh  
 Kamal Nath, Shri  
 Karan Singh, Dr.  
 Karunakaran, Shri K.  
 Kaur, Shrimati Preneet  
 Kaushik, Shri Rama Shanker  
 Keswani, Shri Suresh A.  
 Khan (Durrui), Shri Aimaduddin Ahmed  
 Khan, Shri Abul Hasnat  
 Khan, Shri K.M.  
 Khan, Shri K. Rahman  
 Khan, Shri Sunil  
 Khuntia, Shri Ramachandra  
 Kidwai, Dr. A.R.  
 Kondaiah, Shri K.C.  
 Krishnadas, Shri N.N.  
 Kurup, Shri Suresh  
 Lachhman Singh, Shri  
 Lahiri, Shri Samik  
 Lakshmisagar, Prof. A.  
 Lama, Shri Dawa  
 Lepcha, Shri S.P.  
 Mahale, Shri Haribhau Shankar  
 Mahant, Dr. Charan Das  
 Maharaj, Dr. Swami Sakshi Ji

Mahato, Shri Bir Singh  
 Maheshwari, Shri P.K.  
 Maheshwari, Shrimati Sarla  
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 Mandal, Shri Sanat Kumar  
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 Manmohan Singh, Dr.  
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 Patel, Shri Dharm Raj Singh

Patel, Shri Dinsha  
 Patel, Shri Tarachand Shivaji  
 Patil, Shri Amarsinh Vasantrao  
 Patil, Shri Bhaskarrao  
 Patil, Shri Prakash V.  
 Patil, Shri R.S.  
 Patil, Shri Shivraj V.  
 Patil, Shri Uttamrao  
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 Puglia, Shri Naresh  
 Qureshi, Shri Abdul Gaiyur  
 Radhakrishnan, Shri Varkala  
 Raghavan, Shri V.V.  
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 Raikar, Shrimati Bimba  
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 Saiduzzama, Shri  
 Samadani, Shri M.P. Abdussamad  
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 Shinde, Shri Sushil Kumar  
 Shukla, Shri Shyamacharan  
 Sibal, Shri Kapil  
 Singh Deo, Shri K.P.  
 Singh, Dr. Raghuvansh Prasad  
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 Singh, Kunwar Sarv Raj  
 Singh, Sardar Buta  
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 Singh, Shri Balbir  
 Singh, Shri C.N.  
 Singh, Shri Chandra Bhushan  
 Singh, Shri Charanjit  
 Singh, Shri Khel Sai  
 Singh, Shri Lakshman  
 Singh, Shri Rajo  
 Singh, Shri Ram Prasad  
 Singh, Shri Surendra Kumar  
 Singh, Shri Th. Chaoba



Singh, Shri Tilakdhari Prasad  
 Singh, Shri W. Angou  
 Singh, Shrimati Kanti  
 Singh, Shrimati Rajkumari Ratna  
 Singh, Shrimati Shyama  
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 Soni, Shrimati Ambika  
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 Subba, Shri M.K.  
 Sudarsana Natchiappan, Shri E.M.  
 Sudheeran, Shri V.M.  
 Suman, Shri Ramji Lal  
 Suresh, Shri Kodikunnil  
 Tiwari, Shri Sunder Lal  
 Tohra, Sardar Gurcharan Singh  
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 Yadav, Shri Devendra Singh  
 Yadav, Shri Mulayam Singh  
 Yadav, Shri Vijay Singh  
 Zahedi, Shri Mahboob  
 Zahidi, Shri Khan Ghufuran

MR. DEPUTY SPEAKER: Subject to correction\*, the result of the Division is:

Ayes: 425

Noes: 296

*The motion was adopted.*

\* After scrutiny of slips, final result comes as follows:

Ayes: 425

Noes: 294

Abst: Nil

MR. DEPUTY SPEAKER: Let the doors for Lobbies be opened.

SHRI SOMNATH CHATTERJEE: Sir, as a protest, we are walking out.

20.56 hrs.

*At this stage, Shri Somnath Chatterjee and some other hon. Members left the House.*

MR. DEPUTY SPEAKER: Now, we shall take up clause by clause consideration of the Bill.

The question is:

"That clauses 2 to 64 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 64 were added to the Bill.*

*The Schedule was added to the Bill.*

21.00 hrs.

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

MR. DEPUTY SPEAKER: The Minister may now move that the Bill be passed.

[Translation]

SHRI L.K. ADVANI: Mr. Deputy Speaker, Sir, beg to move:-

"That the Bill be passed".

[English]

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted.*

MR. DEPUTY SPEAKER: The Bill is passed.

Hon. Members before we bring this Joint Sitting of the Houses to a close, I express my gratitude to all the Members for their participation, cooperation and upholding the best traditions of democratic process. I also take this opportunity to extend my thanks to the Secretary-General, Lok Sabha, Officers and Staff of Lok Sabha Secretariat and other agencies who have put in great efforts to make this historic sitting a success.

The Joint Sitting of the Houses of Parliament is now concluded.

21.02 hrs.

*The Joint Sitting of the Houses of Parliament then concluded.*

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