

# LOK SABHA DEBATES (English Version)

Fourth Session  
(Tenth Lok Sabha)



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## LOK SABHA DEBATES

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### LOK SABHA

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*Tuesday, August 18, 1992/ Sravana  
27, 1914 (Saka)*

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*The Lok Sabha met at*

*Eleven of the Clock*

[MR. SPEAKER *in the Chair*]

[*Translation*]

(*Interruptions*)

SHRI MADAN LAL KHURANA (South Delhi): Mr. Speaker Sir, unfurling of Pakistani flag and Disrespect shown to Indian Tricolour in Kashmir is a serious issue.

(*Interruptions*)

SHRI SURAJ MANDAL (Godda): Mr. Speaker, Sir, issue of horse-trading witnessed in Bihar in respect of the hon. Members of JMM needs to be debated upon in the House. (*Interruptions*)

11.01 hrs.

RE: SPLIT IN THE JANATA DAL AND  
INTERIM ORDER OF THE SPEAKER IN  
REGARD THERETO

[*Translation*]

AN HON. MEMBER: Mr. Speaker Sir,

please withdraw your interim order as it is totally unjustified. (*Interruptions*)

SHRI SURYA NARAYAN YADAV (Saharsa): Other wise the House will not be allowed to function. (*Interruptions*)

SHRI RAJNATH SONKAR SHASTRI (Saidpur); Mr. Speaker Sir, we have given to you the notice of privilege motion against them. Therefore, the House must function.

(*Interruptions*)

SHRI BASUDEB ACHARIA (Barkura): How can the House function.

(*Interruptions*)

SHRI SURAJ MANDAL: In Bihar the Janata Dal is responsible for creating a split in JMM. So, there should be discussion on it in the House. Horse trading is going on in Bihar. These people are deliberately not allowing the House to function. The House must function (*Interruptions*)

AN HON. MEMBER: Your interim order is totally unjustified.

(*Interruptions*)

SHRI RAJNATH SONKAR SHASTRI: All these people are disturbing the House too

3 *Re. Split in the Janta  
Dal and Interim order*

AUGUST 18, 1992

*the Speaker in regard  
thereto*

as they had disturbed the party meeting earlier. They are continuously creating disturbance. We are in favour of allowing the House to function. *(Interruptions)*

[*Translation*]

SHRI RAJNATH SONKAR SHASTRI:  
Mr. Speaker, Sir, democracy is being murdered. *(Interruptions)*

SHRI BASUDEB ACHARIA: How can the House function.

[*English*]

*(Interruptions)*

SHRI BASUDEB ACHARIA: Sir, parliamentary democracy is being murdered. You keep your order in abeyance. Do not denigrate the parties and dignity of this House.

SHRI RAJNATH SONKAR SHASTRI:  
The House must function. It should not stop functioning. Many issues are before us. *(Interruptions)*

*(Interruptions)*

[*English*]

[*Translation*]

SHRI BASUDEB ACHARIA: Your action will definitely encourage horse-trading in the House. *(Interruptions)*

SHRI SURAJ MANDAL: Mr. Speaker, Sir, this is their routine business. These people started staging split inpatients in Bihar and indulging in horse trading.

[*Translation*]

*(Interruptions)*

SHRI RAJNATH SONKAR SHASTRI:  
The Government of Bihar should resign. *(Interruptions)*

SHRI RAJNATH SONKAR SHASTRI:  
Mr. Speaker, Sir, They have done a wrong thing and even then they are making noise. They are not allowing the House to function. *(Interruptions)*

[*English*]

SHRI SURAJ MANDAL: They are creating disturbance just to shield the Government of Bihar. The Government of Bihar is on the verge of bowing out of office. *(Interruptions)*

SHRI BASUDEB ACHARIA: Sir, you tell us whether you will keep your order in abeyance or not. *(Interruptions)*

MR. SPEAKER: Hear me, I will tell you now.

*(Interruptions)*

SHRI BASUDEB ACHARIA: How can the House function in this way?

[*Translation*]

[*English*]

SHRI VIJAY NAVAL PATIL (Erandol):  
Sir, I have moved a privilege motion.

*(Interruptions)*

SHRI RAJNATH SONKAR SHASTRI:  
Mr. Speaker, Sir, the Members who do not want to listen to you may take leave of the House.



11.08 hrs.

[Translation]

*At this stage, Shri Devendra Prasad Yadav and some other hon. Members came and sat on the floor near the table*

*(Interruptions)*

[English]

MR. SPEAKER: I wish you should hear me. Are you willing to hear me?

SEVERAL HON. MEMBERS: Yes, Sir.  
*(Interruptions)*

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRIGHULAM NABI AZAD): Sir, you will have to take the sense of the House as to whether they would like to run the Parliament or not. *(Interruptions)*

[Translation]

SHRI RAJNATH SONKAR SHASTRI: They should be suspended from the House  
*(Interruptions)*

[English]

SHRIGHULAM NABI AZAD: I request the hon. Speaker to take the sense of the House about those who are for running the Parliament and those who want to disrupt the proceedings. This cannot go on like this...*(Interruptions)*

SHRISRIKANTA JENA (Cuttack): Then move a resolution...*(Interruptions)*

We are ready to face the consequences...*(Interruptions)*

MR. SPEAKER: You shall have to hear me!

*(Interruptions)*

MR. SPEAKER: You shall have to hear me..

*(Interruptions)*

MR. SPEAKER: This is not proper. You are trying to pressurise the House through such tactics...*(Interruptions)*

MR. SPEAKER: All this cannot be allowed.

[English]

MR. SPEAKER: You shall have to hear me. You cannot rob the rights of others.

*(Interruptions)*

SHRI RAM VILAS PASWAN: Why don't you suspend? Is this the way for a democracy to function?...*(Interruptions)*

MR. SPEAKER: Why should I suspend You? I am not going to oblige you. You are nobody to pressurise me to take a decision. Let it be seen by the people.

*(Interruptions)*

MR. SPEAKER: You cannot pressurise me into taking a decision.

*(Interruptions)*

MR. SPEAKER: You are pressurising for a decision. I am not going to do that.

*(Interruptions)*

MR. SPEAKER: No, I am not going to oblige Nitish Kumarji by expelling you.

*(Interruptions)*

SHRI RAM VILAS PASWAN (Rosera):  
Why did you give a judgement? Why are you  
denying? (*Interruptions*)

MR. SPEAKER: Why should I sus-  
pend?

(*Interruptions*)

MR. SPEAKER: You cannot pressurise  
me to make a decision. You are openly in the  
House pressuring for my decision. I am not  
going to do that. You cannot pressurise me  
for a decision like this. I am not going to do  
like that.

(*Interruptions*)

MR. SPEAKER: There is no secret.  
You are in the House. You are pressurising  
the Speaker. You cannot have a decision  
like this. Judicial decisions cannot be given  
like this. When some votes are used against  
the Speaker in the Chamber, the House can  
take a decision. You are openly, in the  
House, in front of everybody not only abus-  
ing the Speaker but also asking for decision  
to be taken. It cannot be done. I am not  
going to do that. You cannot do that.

(*Interruptions*)

SHRI SRIKANTA JENA: Mr. Speaker,  
Sir..

MR. SPEAKER: I am not going to oblige  
you by expelling them. I am not going to be  
pressurised like this. Judicial decision can-  
not be taken like this. You cannot expect a  
decision like this.

THE MINISTER OF PARLIAMENTARY  
AFFAIRS(SHRIGHULAM NABIAZAD): Sir,  
our party has given a Privilege Motion. I  
would request the hon. Speaker to entertain  
that privilege motion.

MR. SPEAKER: I am not in a hurry to  
accept the Privilege Motion. I do not want to  
be touchy on that also. I am giving them a  
chance to reform.

(*Interruptions*)

MR. SPEAKER: When the house is  
looking, when the Press is looking when the  
country is looking, you are pressurising for a  
decision. You cannot have a decision like  
that.

(*Interruptions*)

SHRI SRIKANTA JENA: Mr. Speaker,  
Sir, we are sorry about what you have said  
that we have been pressurising you to take  
a decision.

MR. SPEAKER: What is it if it is not  
pressurising? Is it the way to have a judicial  
decision? You argued the case before me.  
I allowed you to argue the case in my Cham-  
ber. I will again argue it with you but you  
cannot pressurise me for a decision like this.  
I am not going to give a decision either under  
your pressure or under anybody's pressure.  
You are openly pressurising me.

(*Interruptions*)

SHRI BASUDEB ACHARIA(Bankura):  
You have created this situation. Why did you  
issue the order? (*Interruptions*)

MR. SPEAKER: It does not require any  
evidence to show that you are pressurising  
the Speaker to take a decision. You cannot  
argue like this. You are doing it in front of  
everybody. You can argue the case for a  
week or for days but you cannot pressurise  
me for a decision.

(*Interruptions*)

[Translation]

SHRI RAM VILAS PAWAN: It is the question of safeguarding democracy which is being murdered.

[English]

MR. SPEAKER: I will give you as much time to argue the case as you want. You come with a lawyer. You can come yourself. You can come with anybody or you give your arguments in writing. I will decide it but you cannot pressurise me from a decision like this.

(Interruptions)

[Translation]

AN. HON. MEMBER: If any party expels its Members...(Interruptions)

MR. SPEAKER: This is not the way to protest.

(Interruptions)

[English]

MR. SPEAKER: You abused the Speaker in the House.

I you have no faith in me, move a No-Confidence Motion. I will challenge the charge against me. What is this? You cannot pressurise me like this.

(Interruptions)

[Translation]

SHRI MUKUL BALKRISHNA WASNIK (Buldana): Mr. Speaker Sir, they lack guts to move the privilege motion against the Hon. Speaker

(Interruptions)

[English]

MR. SPEAKER: I am not obliging you. I am not obliging them. I am not obliging you by expelling them and I am not obliging them by accepting the Privilege Motion against you.

(Interruptions)

SHRI BASUDEB ACHARIA: Sir, you expel...(Interruptions)

MR. SPEAKER: If you have allowed the Speaker to work as a Judge, you argue before me as a Judge. You cannot argue before a Judge like this. You cannot go in front of a Court and shout at a judge and get a judgement. You depend on logic. You depend on reason. You depend on law. You depend on facts. And, then you have a judgement. You cannot pressurise me for a decision like this. I am not going to give you a judgement under pressure like this.

There is no evidence that somebody has pressurised me but there is an evidence now that you have pressurised me for a judgement. I am not going to give you a judgement like this.

[Translation]

SHRI RAJNATH SONKAR SHASTRI (Saidpur): Sir, they can go to any extent. (Interruptions)

[English]

SHRI BASUDEB ACHARIA: You are pressurising us.

MR. SPEAKER: Mr. Acharia, you are pressurising me. You are abusing me. There is no evidence that somebody has pressurised me but there is an evidence that you have pressurised me and I am not moving against you. But, you are in front of every-

body and you are pressurising me.

SHRI BASUDEB ACHARIA: You have been pressurised by the Government to issue an interim order.

MR. SPEAKER: If you want, you can go and appeal before the Supreme Court.

*(Interruptions)*

*[Translation]*

SHRI SURAJ MANDAL: You ask these so-called saintly persons as to who started all this in Bihar...*(Interruptions)*

SHRI LAL K. ADVANI (Gandhi Nagar): Mr. Speaker, Sir, I am sure that there must invariably be several hon. Members, belonging to various political factions in the House, who must be perturbed over yesterday's and today's proceedings going in the House.

SHRI HARI KISHORE SINGH (Sheohar): No, we do not feel sorry. *(Interruptions)*

SHRI RAJNATH SONKAR SHASTRI: They are not at all ashamed of their conduct. Why would they feel sorry? They are bent upon...*(interruptions)*

SHRI LAL K. ADVANI: Sir, I think the meaning of the parliamentary democracy is that...*(Interruptions)*

SHRI HARI KISHORE SINGH: They speak,..... they have taken a sum of Rs. 50 lakhs where is that money?...*(Interruptions)*

AN.HON. MEMBER: We do not want to talk to those who are for sale...*(Interruptions)*

SHRI HARI KISHORE SINGH: I again

submit that they have forsaken even shame..*(Interruptions)*

SHRI LAL K. ADVANI: Mr. Speaker Sir, in parliamentary democracy way out is to be found out through debate only whatever be the circumstances and provocations and differences and so such procedure should be followed even now. And I think you can adopt that. I think that must be followed to hold discussion on the happenings of last two-three or four days. *(Interruptions)*

AN HON. MEMBER: Discussion may be held. *(Interruptions)*

SHRI LAL K. ADVANI: That may be on the motion from this side or that side so that hon. Members may make their points properly. Mr. Speaker Sir, I would like to submit that not only the Constitution and law are before the hon. Members of Parliament, but also the conventions of the Parliament are before them. I believe that the hon. Members of this side have a complaint that this decision has been taken without making them aware of the tradition of this House, though one may say that this tradition has got no legal sanction. Till yesterday, I had no information that even after the expulsion of a member from his party, he will continue to be a member of that party and will continue to be governed by the Party Whip. Only after talks in your chamber in the evening yesterday I came to know that even after his expulsion the member will continue to be the member of the party of which he was a member at the time of elections under the Tenth Schedule of the Constitution and he will be disqualified from the membership of the party only when he does not comply with the whip issued to him. I do not challenge this interpretation from the angle that everything can be interpreted in various ways when something is not written. What would be the position of the expelled member is not mentioned in the Tenth Schedule. You predecessors de-

clared them unattached and so denied those parties of the right to issue whip to the expelled member. If you had meant otherwise, then I would like to submit that their contention is fully correct that at the time when four Members were expelled, they as well as their party should have been informed then and there that under the Tenth Schedule they would continue to be the members of the said party and would continue to be governed by the party whip. The party can issue whip to them.

Mr. Speaker, Sir, my submission is, if there had been this situation, these circumstances would not have cropped up today. But, still I would like to tell my those colleagues that if they have any complaint against the Hon. Speaker, there is no procedure to express their complaint other than to bring a Motion of removal. The manner which you have adopted today is not proper to express your complaints. It is a contempt of the office of Speaker as well as that of the Parliament (*Interruptions*) Therefore, no such step should be taken by either side as may insult the post of Speaker since it will tend to contempt of the Parliament. This is my humble submission.

I would like to submit that if these our colleagues are ready to bring a Privilege Motion, then we can have an opportunity to discuss it and moreover it should be discussed. But we should try to solve this problem through the discussion. (*Interruptions*)

SHRI ATAL BIHARI VAJPAYEE (Lucknow): Mr. Speaker, Sir, before the discussion is started, I would like to request the Members who are sitting here to resume their respective seats. (*Interruptions*). Now the discussion has started, please resume your seats...(*Interruptions*)

SHRI BASUDEB ACHARIA: First kindly listen to our points....(*Interruptions*)

MR. SPEAKER: First I will speak, then I will give you chance to speak. Yesterday I had also said to you to come to my chamber and you yourself or through your lawyer can put your views. Whatever you want to comment on the law or whatever you want to say against me or in favour of me. You can say in my chamber. If the right to decide to schedules is conferred on the Speaker then it is not decided in the House. If you want to decide this issue in the House, I had invited you but you did not come. I had also sent a message to you through Shri Ghulam Nabi Azad. If you want to hold a discussion on this issue even in the House. I am prepared for it also.

Secondly some members are of the opinion that such discussion neither is discussed in the House in this way nor it should be done so. I did not insist on it. I had invited you yesterday and had made you understand it for having a four hour discussion.

If you want to discuss that issue in the House today then according to the provisions of the constitution you will have to give an advance notice for 14 days but I am already to waive this condition. You can move a No-confidence Motion against the Speaker. I quit the Chair and, let the Deputy Speaker conduct the proceedings and then you can complete the discussion. I do not like to hold a discussion on the Motion of breach of Privilege brought against you. I would like that you should bring a Breach of Privilege Motion against the Speaker but I do not want to have a discussion on the motion against you. I am prepared to admit the motion and I will aside. The Deputy Speaker may preside over the proceedings and I can make you understand from there, but I cannot make you understand by sitting here as to what is the meaning of those provisions of the Constitution and as to what is the meaning of the right of your party. There is no provision in the constitution for expelling a Member, but it is very surprising that the

Constitution of your party allows to expel the elected Member. You can expel 32 Members at a time without giving any notice and you want to continue this tradition. But whatever I said is also not final.

*(Interruptions)*

MR. SPEAKER: Whatever I said is also not final.

*(Interruptions)*

MR. SPEAKER: You will have to listen. Please sit down.

*(Interruptions)*

*[English]*

MR. SPEAKER: You sit down. You have to sit down. I am not going to be shut out. You have to hear me. I will give you a chance. I have said that I will myself admit the Motion of No-Confidence against the Speaker. Give a Motion, I admit it. I will come and sit there and I will explain to you from there. You do not expect me to explain from here. If you want any explanation from me, you come to my chamber with a lawyer and I will explain to you, and if you want explanation from me I will come and explain from there. You cannot bamboozle me like that.

*(Interruptions)*

SHRI BASUDEB ACHARIA (Bankura): How can you challenge the action of the party? *(Interruptions)*

MR. SPEAKER: Shri Basudeb Acharia, you are speaking without understanding. I have said, if you want to criticize the Speaker, give a No-Confidence Motion, I will sit and speak from there. Let the Deputy Speaker come here and sit here. You convince me or

I will convince you. You cannot have double standards like that.

SHRI BASUDEB ACHARIA: You should follow the conventions of this House also... *(Interruptions)*

*[Translation]*

SHRI RAM VILAS PASWAN: Mr. Speaker, Sir, the Leader of the Opposition Shri Advaniji has raised a very vital issue and has also tried to calm the agitated House. He has stated a very simple thing. As per your views that even if a political party expels its member/members, he/she/they are considered to be the member/members of the same party in your opinion.

MR. SPEAKER: Yes.

SHRI RAM VILAS PASWAN: I think this issue does not relate only to Janata Dal, but it relates to all the parties also. It is a question mark before the Congress or all the persons who believe in party system that if any political party expels its Member from the party will he be treated as a Member of the very same party in Lok Sabha?

MR. SPEAKER: Yes, Yes.

SHRI RAM VILAS PASWAN: You said that he would be treated as a Member of that party and we say that he will not be treated so.

MR. SPEAKER: If I am wrong, you may move the Supreme Court.

*(Interruptions)*

*[English]*

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): This has absolutely no reference to a political party. *(Interruptions)*

SHRI LAL K. ADVANI: When the Anti-Defection Law was framed, the original law, we were invited by the Prime Minister..

*(Interruptions)*

In 1985 when Prime Minister Rajiv Gandhi invited the representatives of the Opposition to discuss the draft Anti-Defection Bill with him, I remember that the original draft included a provision in the definition of "defection" that if a Member is expelled from the party, then too, he would be deemed a defector and he would cease to be a Member. But some of us opposed that provision and we said that today political parties very often take actions arbitrarily without going through a procedure and it would be unfair that a Member of Parliament elected by more than a million people gets arbitrarily removed from Parliament simply by this expulsion.

Therefore, Prime Minister Rajiv Gandhi agreed and he dropped that provision. He included in the definition of defection only "if a person voluntarily quits the party, or secondly if he disregards the whip, violates the whip without the permission of the party". These are the only two touchstones on the basis of which a person can be deemed a defector.

Subsequent to that, in the operation of Schedule X there have been cases where people who have been expelled by the party continued to be Members of the party but the Speaker has regarded them as 'unattached'. They have been declared 'unattached'. Shri K.P. Unnikrishnan was declared as unattached, Shri Vishwanath Pratap Sing also, perhaps, was declared unattached firstly. All those things had happened. Therefore, what I said was that not your interpretation was wrong, or question it. I do not question that. There is scope for having the interpretation. But I said that in fairness to the House

which has before it the ruling of Shri Balram Jakhar, the ruling of Shri Rabi Ray, in fairness to the Members who have been expelled by the party rightly or wrongly, I am not concerned- in fairness to the party which has expelled them, they should be told that your interpretation of the Tenth Schedule is that even though the party has expelled those four Members, they will continue to be Members of the Janata Dal so far as the Tenth Schedule is concerned. If that had happened, I am sure, that yesterday's and today's problem would not have arisen.

SHRI SRIKANTA JENA: Very good.

SHRI LAL K. ADVANI: My only submission is that while you have the right to frame your ruling if you regard that the earlier ruling was wrong, and there are advantages in what you are proposing, but those advantages when they are sprung upon the House in this manner this kind of situation is bound to arise. Therefore, a way should be found in which they should have been given the due notice, etc., and an early decision on the problems pending before you would help resolve the situation.

Therefore, it is not that anyone is- at least, not I, I am not questioning your interpretation of the Tenth Schedule, because the Tenth Schedule does not deal with expulsions at all. The Tenth Schedule deals only with this, that the person is elected, informs you that "I have been elected by such and such party and the definition of defection confines itself to voluntarily quitting the party and violating the whip. There is no mention of expulsion. But the fact that your two predecessors have given an interpretation- I cannot blame them if they proceeded on the assumption that that is the word, that is the last word- and it is therefore natural that they feel agitated about it, through their agitation, I would again submit should have found expression in a better manner and not in this manner. *(Interruptions)*

MR. SPEAKER: I will allow you. Now, I just want to seek sense of the House. Do you want to discuss this issue?

SHRI BASUDEB ACHARIA (Bankura):  
First you listen to us..(Interruptions)

MR. SPEAKER: I think that the Members do want to express their views and it is in the fitness of the things that I allow them to express their views. I will allow them to express their views.

[Translation]

SHRI CHANDRA SHEKHAR (Ballia):  
Mr. Speaker, Sir, I will not talk about the justification of this issue. The hon. leader of the opposition has referred to the traditions and conditions and I want to remind those traditions to the leader of the Opposition. Two former Speakers had taken the decision. He has a complaint that the Members were not informed about the decision of the former Speakers. I am trying to remind the leaders of the Opposition that when the former Speaker unattached 62 Members, nobody was informed of the decision...

At that time a number of people including me did not agree with that ruling. But the leaders of the then opposition and all of my friends from this side asserted that regarding the Defection law, the power and the decision of the hon. Speaker is final. It has also been the tradition of the House. Irrespective of my reservations regarding the ruling given by the then hon. Speaker, I did not say anything in the House, though I was holding the office of the Prime Minister. The hon. Members sitting on this side had said with one voice that the decision of the hon. Speaker should be unanimously accepted. I did not understand as to how far the limit of progressiveness will go. It is a matter of surprise that 18 months before, the hon. Speaker was above all but after 18 months the office of the hon. Speaker has been got,

downgraded that none is ready to listen to him. There can be complaints against the hon. Speaker. As Advaniji had said that any hon. Member or any party has the right to bring no confidence motion against the Speaker. But insulting the Speaker and disgracing the chair without bringing a no confidence motion against the hon. Speaker is not proper. It is my opinion that the ruling given by the former Speakers were not correct and neither at that time I agree to the rulings of the former Speakers and nor today I agree to those ruling of former hon. Speakers. I understand that those were partisan rulings. But it is the duty of every hon Member to maintain the dignity of the Speaker and to abide by the ruling of the Speaker in the House. That is why, I had agreed to their rulings at that time. These who cry in the name of morality and the tradition of the House should peep into their own past..(Interruptions) It is totally improper that whenever you feel inconvenience or whenever the leadership is at stake, you expel some of you members. This is the common tradition and demand of the political morality that in case a member does not want to remain in your party, this fact, you accept gracefully..(Interruptions) It is a heinous political crime to cry for parliamentary tradition with a view to save your chair or the leadership for a couple of days. The Parliament is to be saved from this crime...(Interruptions)

SHRI HARI KISHORE SINGH (Sheohar):.....(Interruptions) It is not for the first time that the Mahabharat is going on....(Interruptions) Bheeshma Pitamaha was sitting in the court of Dhrithrashtra.(Interruptions) At the time of disrobing of Drapadi, Bhesma Pitamaha kept sitting tight lipped and Shri Chandra Shekharji is also following the same tradition..(Interruptions). Now he has stood up for that only. I would like to make a humble submission that he had shown his disagreement with the rulings of the two



former Speakers. I would like to know his opinion about your ruling, Whether it is right or wrong...*(Interruptions)* When the mind of the aged persons stop functioning, then they listen only to shouting. I beg pardon for it. Today they are talking about traditions, my submission is that the leader of our party Shri Vishwanath Pratap Singhji...*(Interruptions)* but I am ready to accept Mamtam Banerjee as my leader...*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCES DEVELOPMENT (KUMARI MAMTA BANERJEE): I am not ready to go on that side, you may come to this side.

SHRI RAM NAIK: An open call is being given here for defection, it should not be like this...*(Interruptions)*

SHRI HARI KISHORE SINGH: The leader of our Parliamentary Party had sent the names of four members of our party who follow the Party whip on No-confidence motion. You have postponed various principles of Political Science when the matter was being discussed. I have also been a student of political science and it appears that I will again have to read Aristotle and Plato, now. I am ready for it. This Parliament is a prestigious institution. I am ready to learn no matter the teacher is Kumari Mamata Banarjee or Shri Gulam Nabi Azad. I would like you to give ruling on it. What is your ruling, morality demands...

MR. SPEAKER: I ask a question, please give reply to it....

SHRI HARI KISHORE SINGH: The leader of the opposition Shri Advani has referred to the conventions set and rulings given by the former Speakers. What have you to say in that respect?

MR. SPEAKER: You may please clarify one thing to me. It will facilitate other Mem-

bers to speak. You may please tell me whether the Proceedings of the House will have to be regulated in accordance with the constitution of your party or the Constitution of India?

SHRI RAM VILAS PASWAN (Roser): it will have to follow both.

SHRI HARI KISHORE SINGH: It will have to follow both.

SHRI ATAL BIHARI VAJPAYEE (Lucknow): You have asked a very tedious question...

MR. SPEAKER: Atalji, you do not know the background.

SHRI ATAL BIHARI VAJPAYEE: Do not keep the constitution of the country and the constitution of a party at the same level.

MR. SPEAKER: You will also have to give reply to my question.....

SHRI ATAL BIHARI VAJPAYEE: I will.

MR. SPEAKER: I would like to know whether the matter in regard to the expulsion of a member from the House, or restricting his right to sit in the House or reducing the number of Members of a Party will be decided under the provisions of Constitution or by the Party concerned.

SHRI ATAL BIHARI VAJPAYEE: Mr. speaker, Sir, these are the problems which have already been discussed and will be discussed in future also. The decision will have to be taken in the perspective of the present Anti-Defection Act..

MR. SPEAKER: I am saying the same thing.

SHRI ATAL BIHARI VAJPAYEE: My submission is that we should avoid a situ-

ation where the constitution of the country and that of a party clash with each other. The House will work in accordance with the Constitution of the country; we belong to different political parties, these will work according to their own fixed norms, there is no question of clash between the two.

MR. SPEAKER: I do agree, Vajpayeeji, I am very thankful to you.

SHRI NITISH KUMAR (Barh): Mr. Speaker, Sir, just now Shri Advani has pointed out one thing in particular that had you given this interpretation regarding the continuance of the membership at the time when you were informed by Janata Dal about their expulsion and when separate sitting arrangements were made, by you, it would have been...

MR. SPEAKER: I have not used the word 'un-attached' in my ruling; rather I used the words sitting separately; you would have asked as to why I had done so?

SHRI NITISH KUMAR: This situation would not have arisen. But you supported Shri Advani and used the word 'sitting separately' instead of the word 'unattached'. Since the previous two speakers had used the word 'unattached', nobody had even dreamt that you would deviate and use the word sitting separately.

MR. SPEAKER: That is not my responsibility.

SHRI NITISH KUMAR: It would be a separate matter for analysis. Shri Chandra Shekhar, as per his nature, has asked a question in the same context. He gives a new angle to every question, I respect him. He was stated this.

MR. SPEAKER: The discussion is not on his speech, but on something else. Nitish Kumarji, leave him.

SHRI NITISH KUMAR: You have also heard him. You please give reply to it. But let me conclude first. If at all there is anything to reply, you must reply. I would like to learn from you. He has said that 25 Members were declared unattached. But when these Members were declared unattached, the Presiding Officer had rectified it is his final ruling. He had rectified it...

MR. SPEAKER: Actually, it was rectified in the final ruling.

SHRI NITISH KUMAR: He rectified it in the final ruling and when final ruling is taken there is no meaning in having a discussion on the previous ruling. Only the final ruling and not any other ruling can be quoted. Whether good or bad, their Government had come to power, and it was secure till then. Mr. Speaker, Sir, if the previous Presiding Officer had taken the similar decision as you had taken earlier..

[English]

MR. SPEAKER: Ignorance of law is no excuse. This is the basic principle of law.

[Translation]

SHRI NITISH KUMAR: Sir, please let me conclude. I would not take much time. If the then Presiding Officer Shri Rabi Ray had given the same interpretation which you have given today in the context of the Tenth Schedule of the Constitution, then Shri Chandra Shekhar would have been in the purview of the whip of Shri Vishwanath Pratap Singh at that time and not have become the Prime Minister, thus creating a contradictory situation. Imagine, had he given the similar ruling as you have given, would Shri Chandra Shekhar have become the Prime Minister? He would have still been remained under the whip of Shri Vishwanath Pratap Singh. This would have certainly created a

peculiar situation. Therefore, I would request you that in this context...

MR. SPEAKER: If one-third of the Members defect, then there is no need to obey the Whip. Therefore, I would urge that

SHRI NITISH KUMAR: I am coming to your point. I would like you to clarify the things in this regard too. I would like to get information from you and thus add to my knowledge. We would also like to know as to what have been Shri Chandra Shekhar's position at that time.

MR. SPEAKER: I have already told that whip is not applicable to one-third strength of the Members.

SHRI NITISH KUMAR: But I would like to submit to you that you have given the decision. Whip was issued to all the Members of my party, but it was violated at the time of No Confidence Motion, the Members were asked to give an explanation. But the reply was not satisfactory and the members were not condoned rather a petition was filed with you to expel them. The interpretation you gave in your Chamber and here in the House indicates that immediate decision should have been taken in this respect.

MR. SPEAKER: How can it be immediately. Yesterday, you gave me a petition to cancel their membership, how can I give the decision today itself? This is the only matter in regard to which High Court and Supreme Court Council reject the case as it is against the law of natural Justice..

SHRI NITISH KUMAR: You must do it. But was whip issued at that time or not? If so, whether they obeyed it or not?

I want to get just these two points clarified, because they are in the record..

MR. SPEAKER: I will listen to those Members against whom you have submitted a petition.

SHRI NITISH KUMAR : You must.....

MR. SPEAKER: How can I take decision without hearing them.

[English]

SHRI NITISH KUMAR: You may pay more attention to them, but please decide the matter only in accordance with your own point of view. You said that if they violate the whip....

they will be thrown out, they will be disqualified.

[Translation]

Mr. Speaker, Sir, what risk do you find if you decide the matter under the same Rule.

MR. SPEAKER: I do not know the risk involved. But will you teach me law? I may have risk in both the ways..

SHRI NITISH KUMAR: Mr. Speaker, Sir, I would conclude my submission in two sentences. The number of Members who joined Janata Dal under this rule is 20. We have submitted a petition against them. Today they are the Members of Janata Dal, tomorrow they may claim split and the risk is that the split would be acceptable if the number of defectors is 1/3 of the total Members. This is the risk involved in it.

MR. SPEAKER: Have they obeyed the whip issued to them or not? You may expel them; the risk is involved in both the ways..

SHRI NITISH KUMAR: They were asked to do so, but they did not obey the order.

MR. SPEAKER: Therefore, we do not discuss such issues in the House. If I had

shown you the documents and had let you know the ruling of the Supreme Court, you would have understood that petitions cannot be decided within two days. When the Supreme Court takes 4 years or so in settling the cases then will you not give us even a month's time to decide the case?

SHRI NITISH KUMAR: First let them present their argument. However, we are in favour of the speedy settlement of the issue because from the latest interpretation of yours it appears that any hon. Member is free to join any party. Even if Kumari Mamta Banarjee moves over to this side we will continue to be a Congress Member. Therefore, this has created a peculiar situation and posed a threat to the party system. In the end I would like to make one more submission.

MR. SPEAKER: You confine yourself to the legal aspect.

SHRI NITISH KUMAR: Subsequent to your query that what should be the basis for conducting the House-constitution of a party or the Constitution of India - I would like to humbly submit that political parties will function as per their own constitutions and if their constitutions at any stage clash with the Constitution of India then the Supreme Court will strike these constitutions down. But at present the party system is in vogue in the country. There is no reference to the political parties anywhere in the Constitution except in the 10th schedule of the Constitution. There is no mention anywhere, but the majority party is invited to form the Government. What is all this convention? Parties will continue to function under their own Constitution if their constitutions are not at variance with the provisions of the Constitution of India. That is why these can not be at variance with each other. There is no mention of it in the Constitution of India. During the discussion it cropped up that on expulsion Members are free to join any party but no such provision was originally made.

MR. SPEAKER: That's why I am also treating it a case of expulsion.

SHRI NITISH KUMAR: This means parties are in a position to expel them. Therefore, there should be clear cut decision in regard to the status of the expelled Members and not the ambiguous one that they will continue to be the Members of the original party. However, this is natural. It is unjustified to issue whip to the expelled Members.

MR. SPEAKER: I would like to quote to you my judgement so that nothing is quoted out of context. I have explained in my judgement as to what is the difference between crossing the floor by the Members of their own accord and the expulsion of Members by the respective parties. You are requested to make your stand clear on these two aspects. Only after listening to your viewpoint I will decide the issue. I have given you an opportunity to put forth your viewpoint.

SHRI AJIT SINGH (Baghpat): Mr. Speaker, Sir, it had been a convention that no notice is taken of the developments taking place in the parties outside the House by the Chair. You have also said the same thing. I would like to just speak on the point raised by Shri Advani. It is the general view that the 10th schedule can be interpreted differently by different people. However, there are words such as 'unattached and or 'independent' in the 10th schedule. I have been elected by the people of my constituency on the symbol and manifesto of my party, but no party president has any right to disqualify me from the membership. I do not want to say anything about the party constitution which is not followed by even the party President himself. I would like to submit in response to the point raised by Shri Advani, that the ruling regarding our status should have been communicated to them, that we are not 'unattached' Members, but we are

very much Members of the party. So the party is welcome to issue whip. Shri V.P. Singh has written letters to the expelled Members. But in the letter written by Hon. Speaker we have not been called as 'unattached' Members. Hon. Speaker has stated in his letter that we are being provided separate seats for functioning in the House. They are seeking clarifications, because they are not aware of the contents of the letter. Anytime, they can go and check in the Hon. Speaker's secretariat that against the total Membership of Janata Dal - 59 Members have been shown even today. This is ignorance of law because if they have not read the letters then it is neither ours nor Hon. Speaker's responsibility. It is too their domain if they are shy of issuing whip to us under the party's constitution. They are free not to treat us as their party's members and not to issue whip to us in the House though as per the law we are Members of that Party... (Interruptions).. I have not heard the point of the hon. Member clearly and also do not want to discuss all the issues here in the House.

12.00 hrs

SHRI LAL K. ADVANI and many other members content that it is the discretion of the Speaker as to how he interprets the provisions of the Tenth Schedule. This can be discussed. He has stated that it can be discussed. He has suggested that if Shri Hari Kishore Singh had desired he would have discussed it with me in the presence of the Speaker. But he wants only to make noise in the House and he does not want to discuss it sitting together... (Interruptions)

SHRI HARI KISHORE SINGH: I concede that he has natural right to defect. I request the Government to abolish this Tenth Schedule and then he will not be required to spend Rs. 10 crores on it.

SHRI AJIT SINGH: I want to state one

thing more that today all democratic institutions are facing threat to their very existence because had they criticised speaker's decision on legal basis, it would have been right, but the manner in which they have attacked the institution of the Speaker that has a threat to the existence of this very institution. Thus democratic institutions are facing threat to their existence today I would like to appeal to the Members of Janata Dal... (Interruptions)

SHRI MOHAMMAD ALI ASHRAF FATMI (Darbhanga): You are also in the Janata Dal.

SHRI AJIT SINGH: We are in the Janata Dal, but I am telling all of you that if you want that your party should continue to exist in any technical manner, you should understand what Shri Nitish Kumar was saying about a political party. A political party functions according to the character and policies of its leader. As Shri Paswan often says that a party functions on the basis of the intention and policies of its leader, but if you think that you can force 20 Members to accept your leadership by making hue and cry, there you are mistaken.

[English]

MR. SPEKAR: Mr. Ram Vilas Paswan.

SHRI VIJAY NAVAL PATIL (Erandol): Sir, we are also here. please hear us.

MR. SPEAKER: I will allow you.

[Translation]

You can reply later on.

(Interruptions)

[English]

MR. SPEAKER: I will allow one of you.

(Interruptions)

MR. SPEAKER: I will allow all of you to speak.

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. speaker, Sir, I will not go in details. I want to draw the attention of the House to only those points which have been raised here. You said one thing about the unattached and separate members and my colleagues have also raised it. I do not want to refer anybody's name, but it is a collective issue to which I want to draw your attention. Perhaps you might be knowing that Shri V.P. Singh has given you in writing about four members and requested to provide separate seats to them because they have been expelled from the Janata Dal by the Party President Shri S.R Bommai. It is true that after the expulsion from a party a member does not lose his membership of the House. He continues to be an hon. Member of the House. Virtually he is separated from the party only and becomes an independent member.

MR. SPEAKER: I talked of one third strength of the group. You have expelled them from the party you can.

SHRI RAM VILAS PASWAN: We want that you should hold some talk with us. (Interruptions)

MR SPEAKER: Shri Jena, I would give a time later on. Now you sit down Please.

[English]

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Sir, I want to draw your attention to this. Some one in the Treasury Benches is going to the official gallery and talking to the officials there. (Interruptions)

[Translation]

SHRII RAM VILAS PASWAN: I want to state that when Shri V.P. Singh gave you in writing.

SHRI LAKSHMI NARAIAAN MANI TRIPATHI (Kaiserganj): Mr. Speaker Sir, we want to present certain problems of our constituency, but they want to waster the whole time of this House in their disputes only. Yesterday, they waste the whole day of the House and they are doing the same thing today. Perhaps they do not know that a heavy amount is spent to run the House. (Interruptions)

SHRI RAM VILAS PASWAN: When Shri V.P. Singh expelled four members from his party and informed you about that you responded to the expulsion to Shri V.P. Singh in writing that separate seats have been provided to them in the House. Whenever a leader of a party expels any member from the party be it a,b,c, or d party and the speaker gives his ruling that the expelled member will sit outside of the party or to the side of congress party...

MR. SPEAKER: Please listen to me for a minute, look, I have written this in my judgement, I am going to tell you that judgement.

SHRI RAM VILAS PASWAN: I have the copy of the judgement with me.

MR. SPEAKER: If you listen to me, you will find answer to your question.

Now please listen to me. I am saying it to all of you.

[English]

"What is the implication of expelling a Member from his Party? Does the

expulsion affect his status as a Member in the Lok Sabha? Can it in any way make him more liable and less equal with respect to the provisions of the Tenth Schedule of the Indian Constitution?"

[Translation]

Thereafter, I have said that you have to decide the point referred to therein. In para 40 of the judgement, it has been written. I have not given the final judgement. I have given you an opportunity to speak only.

[English]

"What is the legal implication of their sitting separately at the instance of the Leader of the Party or at their own instance in groups of fours or in a group of twenty is to be clearly determined."

You have to tell me. I have not taken any final decision.

[Translation]

SHRI RAM VILAS PASWAN: All right. I am coming to that very point, sir. I was saying that you had written in your reply to the leader that separate seats have been allotted to 4 members. In that situation we assume and everybody can assume, as has been said by Shri Advani, if Shri V.P. Singh or Shri Unnikrishnan is expelled, then how can a party issue its whip to a member whom it has already expelled from the party for six years.

MR. SPEAKER: What do you understand? Is it not my responsibility?

SHRI RAM VILAS PASWAN: I want to say that both should be made responsible and if not now, then let it be later on.

[English]

MR. SPEAKER: Ignorance of law is no excuse.

[Translation]

SHRI RAM VILAS PASWAN: The second thing that I want to say is that Shri Ajit Singh had not said anything at any stage about the splitting of 20 members who joined him later on. He asked you to arrange for separate seats for them because they were not pulling on well with Shri. V.P. Singh and they had not faith in his ideology. You agreed with them and provided separate seats for 20 members including the group of four and those who had joined Shri Ajit Singh in December. You told them that they could change their seats. The seats of Shri Nitish Kumar and some other members also got changed and you say that.....

[English]

they are in Janata Dal.

[Translation]

I want to know from you that suppose if Shri Arjun Singh in the Congress Party (Interruptions)

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRIM.L. FOTEDAR): All this can happen in the Janata Dal only. It behoves you alone.

MR. SPEAKER: Shri Paswan, I want only legal arguments and not political ones.

(Interruptions)

[English]

MR. SPEAKER: I want Constitutional interpretation.

[Translation]

SHRI RAM VILAS PASWAN: Sir, I have a basic question. Suppose, tomorrow a member of Congress party, or that of B.J.P. or of any other party says that he wants a separate seat...*(Interruptions)*

[English]

MR. SPEAKER: I cannot reply to your political question; I can reply to your legal question.

[Translation]

SHRI RAM VILAS PASWAN: This is not a political question. If 10 or 5 members of a Party come to you and say that they do not have faith in the leadership of their party or they have finding it difficult to adjust themselves with that party, will you allot separate seats to them? Since neither Shri Ajiti Singh nor the others who joined him later on have given in writing that they have split the Party, therefore, please allot separate seats to them. He has said....

MR. SPEAKER: Do you mean to say that at your request, I can allot separate seats to four persons and not to others?

SHRI RAM VILAS PASWAN: No, no. We want to say that the persons to whom you have allotted separate seats had defected from the party.

MR. SPEAKER: What do you mean?

SHRI RAM VILAS PASWAN: Sir, the judgement that you have given will encourage defection. If a group of four persons tells you that it has left the Party and demands separate seats for it and assures you that it will form 1/3rd of the Party in near future and in this sequence it claims after two years that they have now become the 1/3 of the party

from which they had defected earlier then will you has been that a new block formed? This is not good for the democracy. You want that Anti Defection law should continue, But horse-trading of members is going on. Members are being sold and purchased for Rs. 50 lakh or 1 crore. It would be better if this law is abolished and whatever a member will get after deserting a party that will be his own. Therefore, it is fundamental issue. We have read the views of Shri Rabi Ray and of other colleagues regarding the members who have deserted their party for ever. Had Shri Ajit Singh approached you with the plea that he had one-third of the members with him and the Janata Dal was trying to prevent the split, I think, then your this decision would have been right. But Shri Ajit Singh had not said at any stage that he had the one-third members with him. Recently four members have been disqualified and you have been requested to disqualify them. Now there have left 12 members. 12 and 4 are 16. Had there been 20 members, you might have argued that their statement is correct. But only 16 members came to see you, and you manipulated to add 4 more members. After adding them you say that you are providing separate seats for them which is also the intention of our colleagues. You have raised certain basic issues.

MR. SPEAKER: Shri Paswan, Shri Ajit Singh has not asked for split under the anti-defection law, but in your written statement you have written about anti-defection law only.

SHRI RAM VILAS PASWAN: My question is different...*(Interruptions)* I have raised the issue that if a member requests you to allot a separate seat, will you do so? I take you with high esteem. But you have given an interim order. I request you to give the final order so that defection could be checked at least in future.



[English]

MR. SPEAKER: You cannot pressurise me for orders like this.

SHRI RAM VILAS PASWAN: I am not pressurising you.

[Translation]

But I would like to request that you should not take any action which may encourage defection. (*Interruptions*)

SHRI DATTA MEGHE (Nagpur): Mr. Speaker, Sir, I am on a point of order. You have already given your judgement on the subject being raised by Shri Paswan just now. Shri Paswan was talking about your judgement. It is not proper to speak the Chair like this.

MR. SPEAKER: Many things have been said about the Chair. Much more has been said earlier.

(*Interruptions*)

SHRI DATTA MEGHE: Therefore, I gave a notice for the Privilege Motion. What have you decided about that?

MR. SPEAKER: I will look into the Privilege Motion later on.

[English]

SHRIPAWANKUMAR BANSAL (Chandigarh): Mr. Speaker, Sir, under Rule 4 of the Members of Lok Sabha (Disqualification of Ground on Defection) Rules, 1985, every Member has to furnish *inter alia* to the Secretary-General, a statement of particulars and declaration as in Form III. Further under sub-rule (2) of Rule 5, "the information

in relation to each member shall be recorded on a separate page in the Register."

For this purpose, I very briefly refer to two sentences mentioned in the Form. He files a declaration as to the party date of affiliation on election i.e., the political party to which he belongs. He further gives a declaration that in the event of any change in the information given above, he undertakes to intimate the Speaker immediately.

In Form IV, if you refer to columns 7 and 8, Column 7 refers to name of political party to which he belongs. Column 8 is about the name of legislature party to which he belongs.

In my humble manner, I will try to answer the question which you posed. If any political party ever suspends or expels any Member who is an elected member of any House of Parliament or of a State Legislature, my submission is that *prima facie* it does not affect his status as a member of that legislature or parliamentary party as such because tenth schedule does not provide for this and he has not furnished information to that effect to the Speaker or to the Secretary General. As the concerned Member does not furnish that information, no change can be brought about in the Register which is maintained by the Secretary-General. As long as that change is not brought about he continues to remain a member of that parliamentary party or legislature party for which he has signed the declaration.

Admittedly, in this case the four hon. Members to whom separately seats were allotted earlier and the four hon. Members to whom separate seats were allotted thereafter, did not furnish any such information to you and information furnished by anybody other than those concerned Members, is of no relevance. That is my humble submission and, as such, those Members continue to remain Members of that political party.

Under Rule 4 of the Rules of Procedure and Conduct of Business in Lok Sabha, it is only the Speaker who allots a seat to any Member in the House. That is the prerogative of the Speaker. If on a petition, on an application, filed by some Members to the Speaker, the Speaker allots them individual seats without deciding upon any other matter, that cannot be challenged by us and this brings me to the final point as to the rationale of allotting separate seats. If my presumption, my information, is correct, these hon. Members wanted separate seats. They are not claiming separation. That is accepted by Shri Ram Vilas Paswan also. The question of anti-Defection law does not arise. They wanted separate seats to avoid some unseemly situation, some unpleasantness, in the House and it is only an interim decision taken by you. Here I would like to say that whenever the question of interpretation of the provisions of anti-Defection law arises it becomes the bounden duty of the Speaker to see that nobody endeavours to circumvent the provisions of law.

The anti-Defection law postulates and accepts one provision. That is, if one-third of the Members of the Party want to split, they will not attract the provisions of the anti-Defection law. Our hon. friends at one time were expressing different opinions about it. They, at that time, accepted the provisions, but subsequently challenged it. Today they involve...

MR. SPEAKER: Please do not rake up the thing. Let us reduce the agony.

SHRI PAWAN KUMAR BANSAL: Sir, I would submit that if any Party wants to circumvent the re-provisions by expelling four Members at a time, I suppose the Speaker has to exercise the jurisdiction and decide the case on the merits as represented before him. In this case, the facts have not been brought before you and till

then the allocation of separate seats is perfectly legitimate.

SHRI SRIKANTA JENA: I was under the impression that you are supporting our view. You are not supporting our view.

MR. SPEAKER: You are alleging against everybody. You are not sparing anybody at all.

SHRI VIJAY NAVAL PATIL(Erandol): Twenty people have been expelled from your Party.

SHRI DEBI PROSAD PAL(Calcutta North West): The manner in which the proceedings started yesterday are very unfortunate. Some of the Members in this House have expressly observed that this high office is being denigrated by you. Some members have observed that this office has become a tool of the Government. But this is not the way in which the Members of this House should behave. This is not the way to behave properly and responsibly.

Now what has happened here? The Hon. Speaker has taken an interim decision. Under what circumstances? We are not going into the propriety of the action. That will be debated in a different way. Some of the Members are alleged to have been expelled by a political party. Now if the political party expels the Member, that does not automatically disentitle his Membership of this august House. As Shri Lal K. Advani has rightly pointed out under Rule 3 of the Tenth Schedule, there are two circumstances under which a person may be disqualified. Either he voluntarily quits the political party which he represents, or he has disobeyed the whip of his political party without any reason.

Now, if a political party expels a Member, that does not automatically or *ipso facto* mean that he has ceased to be a Member of

this House. The expulsion may be for different reasons. If arbitrarily a person is expelled from his political party and if the Speaker has to decide whether it is in accordance with the law or not, then the matter has to be gone into. The hon. Speaker has made it clear that it has to be probed in depth and then a final decision has to be taken. But until a final decision is taken, these persons have not ceased to be Members of this House. If that is so, then they must be allotted some seats in the House. You cannot say that they will have no seats; they will have no allocation of seats in this House. It is a prerogative of the Speaker. If the Speaker has taken this decision, as an interim measure, but until a final decision is taken in this matter, there is nothing wrong in that decision. In any event, we are not questioning at the present moment the propriety of the decision of the hon. Speaker. This we must not forget. *(Interruptions)* The Constitutional democracy has given rights to the members. But at the same time the dignity of the Office of the Speaker is to be preserved. The way in which some of the Members have behaved, it is not only an insult to this House but also it is a breach of privilege. By making disparaging remarks the highest Office of this House, you are committing a breach of privilege; you are committing contempt...*(Interruptions)* Yes, we have given a notice...*(Interruptions)*

SHRI HARI KISHORE SINGH: Kindly move your motion. *(Interruptions)*

DR. DEBI PROSAD PAL: The way in which it has been done, really speaking, is an insult to this House. If the Constitutional democracy is to function properly, we must have to respect the decision of the hon. Speaker. There are different way how you can express your grievances and also ventilate the grievances. You can express how you feel aggrieved...*(Interruptions)* But it is not a correct ways to make disparaging remarks, degrading remarks against the high

Office of the hon. Speaker. What are we doing? We are degrading ourselves; we have denigrating ourselves and this august House. Every Member has got a collective and individual obligation, responsibility to maintain and preserve the dignity of the House. We are now discussing the decision of the Speaker which has been given. We have got to obey it. We cannot make this sort of a disparaging remark. The hon. Speaker represents the high office, the highest Office of this House. If anybody makes this sort of a disparaging remark, then he is really degrading this august Body. We have already given a notice saying that the Members who have made these disparaging remarks have committed a breach of privilege. We have already given a notice of breach of privilege. I will request you to allow us to move that motion. *(Interruptions)*

MR. SPEAKER: Please spare us from the agony of just prolonging this discussion. Please understand the implications.

*(Interruptions)*

DR. KARTIKESWAR PATRA (Balasore): Sir, I am on a point of order.

MR. SPEAKER: What is your point of order?

DR. KARTIKESWAR PATRA: His goodness the hon. Speaker has allowed this discussion in this House. The matter is *sub-judice* in the hon. Speaker's Court ...*(Interruptions)* Yes, that is a fact. It is the prerogative of the Speaker that you will give a judgement in this matter. During the discussion if any aspersion is cast on the Chair, on the Speaker, we cannot tolerate. We cannot tolerate any aspersion cast on the decision of the Chair.

MR. SPEKAER: This is not a point of order. Please take your seat now. Please help me.

AN HON. MEMBER : It is an interim remark !

MR. SPEAKER: It is a very intelligent remark you are making.

*(Interruptions)*

SHRI INDRAJIT GUPTA(Midnapore): Mr. Speaker, Sir, whatever views the hon. Members may hold about the attitudes taken by some Members during the last few days, of this unfortunate episode, I think, we should be rather cautious - all of us - in approaching the issue involved because something is now happening which may easily affect any party in this House any day. At the moment, it is affecting one particular party. But what has happened can happen easily to any other party also. Therefore, we should be rather circumspect and cautious in approaching this question. I sincerely hope that nothing will happen which will lead us back as it were to the days when *Aya Ram Gaya Ram* used to be the order of the day and which led ultimately to the legislation of the Anti-Defection Act.

I think, what I heard just now were the arguments that were being made. I am sorry I was a bit late in coming here from some other place. The arguments seems to be over the question of - although everybody says that we cannot question or disobey the ruling, the order even if it is an interim order given by you yet there seems to be some arguments going on about the pros and cons of the question - allotting separate seats to some Members who have sought from you that indulgence. I only want to raise one or two points. The other Members of other parties may not be worried but I am worried about it. We are a small group here, the CPI. Suppose tomorrow, two or three of my Members who are now sitting here behind

me - of course, such a thing will not happen because discipline in our party is rather different - get up and they write to you or go and meet you in the chamber and say, "we do not like Mr. Indrajit Gupta, we do not like his face, we do not like the way he talks, we do not wish to continue to be under his leadership and, therefore, we request you to allot us some separate seats away from the CPI block of seats." what is to be done? I find that in the letter which was addressed to you, Sir, by some twenty hon. Members. I have got a copy of that letter here which was received, it is said: "At 10.30 a.m. on the 7th of August, we the undersigned members of Lok Sabha, " there are twenty names here, "who were elected on the Janata Dal ticket to the Lok Sabha herewith give notice that we have fundamental differences with Shri V.P. Singh, the present leader of the parliamentary party on the question of safeguarding secularism and combatting communalism, "that means, they have some political differences." Shri V.P. Singh holds his personal likes and dislikes above the principles of social justice and secularism." This is the explanation what I read out just now. It further reads, "therefore, we want to sit separately in the House." In every party...

SHRIPAWANKUMAR BANSAL (Chandigarh): You please read it further.

SHRI INDRAJIT GUPTA: I am coming to that, I will read the whole letter. One thing is agreed in all the parties to a greater or lesser degree, there may be individual Members who have some cause-justified or unjustified - or dissatisfaction with their own leaders or with their own party. Can that be a ground for their asking you to allot to them separate seats in the Lok Sabha?

Then they continue to say, "This is in consequence of a split in the political party and our claim under Para 15 of the Symbols Order to be pressed in an application before the Election Commission that we are the

original Janata Dal." Here I only wish to make two points of facts which I came to know. One was, they did approach the Election Commission under the Symbolic Order asking for the allotment of symbol to them and that was rejected. Secondly Sir, you yourself, I find in your order, have stated not once but at least three times in different places that "It is not at all clear to me what these people are wanting and what exactly is their claim, I could not understand from what they said to me." I may not be quoting your exact wordings because I have not got with me a copy of your order. But this is the substance of what you have said.

Did they say or are they saying even now that they have voluntarily resigned from the Janata Dal? Then, certainly they can say that they want separate seats. They have not said that. Have they said that one-third of the Members of the Janata Dal have defected and, therefore, they are entitled to have a separate group or a party and, therefore, you should give them separate seats? They have not said that.

MR. SPEAKER: Indrajitji, just now I explained this thing to Paswanji. Paswanji asked me: "They have not asked anything under the Tenth Schedule. Why do you decide under the Tenth Schedule?" They have not asked anything under the Tenth Schedule but the written statement given by Janata Dal speaks only about Tenth Schedule.

SHRI INDRAJIT GUPTA: But what you are saying is that you are not able to follow.

MR. SPEAKER: That is why, there is a plaint given by Ajit Singhji's group and there is a written statement given by V.P. Singhji's group. In Ajit Singhji's plaint, there is no mention about the Tenth Schedule; in V.P. Singhji's written statement, everything is about the Tenth Schedule. That is why, I had to say that I am not deciding any issue under

the Tenth Schedule now. I will decide that issue after hearing both the parties.

SHRI INDRAJIT GUPTA: Quite right. I am not repeating either what Shri Ajit Singh says or what Shri V.P. Singh says.

MR. SPEAKER: The question is why did I refer to Tenth Schedule, if it is not mentioned. That is the point. I am explaining that in the written statement nothing but the contents of the Tenth Schedule have been referred to.

SHRI INDRAJIT GUPTA: The point on which I would in fact, be seeking some further clarifications from you...

MR. SPEAKER: I will give all the clarifications. But it is very difficult to give clarifications sitting in this Chair. I can refer to the documents, show you the documents and show you everything. But sitting here, I feel, as if I am in a dock now. The Best course for me would have been to ask the House whether they have a confidence in me or not and then start proceeding because I cannot be sitting here giving the judgement and do both the things.

SHRI INDRAJIT GUPTA: I quite agree that position is very awkward for you.

MR. SPEAKER: That is why, the first thing I would like to ask the House now is that if they have confidence I will hear. Otherwise, I think this is a *de facto* no confidence motion against me if not *de jure*. If they have confidence I will sit here. Otherwise, I will step down and I will ask you to do that. But both the things cannot go together.

SHRI INDRAJIT GUPTA: I do not think that anybody has expressed lack of confidence in you.

[Translation]

SHRI ABDUL GAFOOR: Mr. Speaker, Sir, once somebody spoke a word against Shri Tandanji and Shri Tandan came to the House and offered to step down. Shri Chaudhary Khalikujma and all other leaders called on him and offered their apology. Here so many persons are speaking against you. Why do you not step down?

MR. SPEAKER: You are perfectly right, therefore, I am saying.

[English]

Before you proceed, if you have confidence in the Speaker then there is a proceeding. Otherwise, I will step down now itself.

SEVERAL HON. MEMBERS: No, no Sir.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD): Sir, we have total confidence in you and there is no question of any lack of confidence.

SHRI LAL K. ADVANI (Gandhi Nagar): As far as I can recall, throughout this period that you have been the Speaker of the House, never has any Member expressed any lack of confidence, even not the slightest of it. And, therefore, what happened yesterday might be an unhappy one and I said it publicly and I repeat it today also. And, therefore, this observation by an hon. Member should not be regarded in that way. You yourself offered in the beginning. I have said that if really we feel so aggrieved about it as to question the *bonafides* of the Speaker, may be wrong in his ruling and after all, everyone has his own judgement, has his own interpretation, but I would plead with every hon. Member let us not question the *bona fides* of

this Office because whatever is done is being done in a *bona fide* manner. As I myself have said, I do not fully agree with this interpretation. If this was the interpretation, due notice should have been given. This interpretation is likely to curb one thing that this expulsion device which is being abused by certain parties only to by-pass the split provision will not be used. Similarly Members who want to defy a party, deliberately invite expulsion in order to save themselves from the law of defection. This also will not happen. Because even after expulsion if he is under the whip of the party he will not be given that kind of advantage. So there are advantages in what you want to interpret, though as I said it is a belated interpretation. Therefore my friends here have reasons to be aggrieved about it.

MR. SPEAKER: I really say that Advaniji is trying to create a situation in which fair discussion can take place. Nothing more than that. I am thankful to him for that. I am really in a very awkward position. You can realise my agony also.

SHRI LAL K. ADVANI: That way I would say that the House is entirely in agreement; there is no question about it.

SHRI INDRAJIT GUPTA: What I understood from the observations of the hon. Leader of the Opposition is that he feels that your order, your interpretation is likely to have a beneficial effect on both sides. That is what he has said. It will curb those parties which will...

MR. SPEAKER: Indrajitji, you will excuse my interruption. This is not the final order. I have said that you come and convince me. Supposing you are aggrieved by my order, now the Supreme Court has said that the order of the Speaker is applicable to the Supreme Court, it is justiciable also. But

then I am not saying that. This is not the final order. I have not said that this is the interpretation of this or that. I have said that it has to be finally decided.

I will just read out what I have said. "Para No.40 - What is the legal implication of their sitting separately at the instance of the Leader of the Party, at their own instance in groups of four or in a group of 20 is to be clearly determined." So this is not the final order. I have given an opportunity to the Members to come and explain to me, enlighten me, change my view if I have any. This is not my final order. I can very well see the apprehensions the Members might have or you might have.

SHRI INDRAJIT GUPTA: May I proceed Sir?

MR. SPEAKER: Yes. But my difficulty is, it seems that you have not read everything.

SHRI INDRA JIT GUPTA: I have read it not once, but several times.

MR. SPEAKER: I do not take it because your memory is so sharp that once you read, you remember it also.

SHRI INDRAJIT GUPTA: I will tell you what is puzzling me or confusing me. That is why I am asking you to clear my confusion.

The parliament of India, according to the present system by which we are functioning, is formed on the basis of parties. The political parties are the basis of this Parliamentary democracy which we are functioning in. People are represented here. Except for a very few members who may be independent Members or Unattached Members, an overwhelming majority are people who are representing certain well defined political parties. They have come here as their representatives, as their nominees, as their

candidates. If that is so, I only wish to know from you whether anything can be done or should be done which would undermine this party system or dismantle it in any way. That is the question.

As I said, suppose some Members of my party do not like me and want to go and sit over there, then what happens to the party? Then all parties can be disrupted, fragmented and separated from each other according to that by giving them separate seats or sitting arrangement, although they have not said that they have resigned, although they have not said that they have formed a separate party. Why should they be given separate seats? It is within your power to do it, I do not question your power.

MR. SPEAKER: Because I may not be remembering this point and reply to it later on, I am just replying now. Supposing the leader wants me to give a separate seat to his members in four groups and on the same basis other Members also ask for a separate seat, what should I do?

SHRI LAL K. ADVANI: Your question is not fair Indrajitji. Because a party leader only asks in case of Members whom the party has expelled. It is not arbitrary. It is not arbitrary. I cannot say that I would like Shri Jaswant Singh to be seated there. I would never say. But, if I expel anyone from my party and on that account I seek a separate seat for him, that is justified. Similarly, if a Member has resigned from the party or if a Member says that he is no longer in the party and so he wants a separate seat, then it is justified and not arbitrarily.

MR. SPEAKER: Okay, I can see the point in it; but I will reserve my final opinion on it. After hearing you, I will do it. I can quite see the point which you are making.

SHRI INDRAJIT GUPTA: I am only

saying that this practice can be carried to a length. It can be carried to a length, where the very basis of the party functioning in this House can be disrupted and distorted. If my individual Members - one, two, three, four or half a dozen - claim as their right that because they do not like the policies of their party or the leader of their party, they must be given separate seats, then what happens to the party? It will happen tomorrow to any other party. It will happen most of all to our friends sitting here. Then what will happen? *(Interruptions)* Yes. It can happen to my party; it can happen ten times more to your party.

So, Sir, as I understand it, your interpretation is - please correct me if I am wrong - that if a party, according to its own constitution, rules, etc. with which you are not perhaps concerned, expels any Member from the party, then that expulsion will not immediately affect his status inside the House. That is your interpretation.

MR. SPEAKER: Yes.

SHRI INDRAJIT GUPTA: He may be expelled from the party, but within the House he continues to be subject to the discipline and the whip and everything of that party.

AN HON. MEMBER: No.

SHRI INDRAJIT GUPTA: That is his interpretation and not mine.

SHRI SRIKANTA JENA: That is the ruling.

SHRI INDRAJIT GUPTA: That is the ruling that has been given.

MR. SPEAKER : No. Where is it, Mr. Indrajit, written?

SHRI INDRAJIT GUPTA: You have said,

Sir, that according to your interpretation...

MR. SPEAKER: I have said that I have to decide it.

SHRI INDRAJIT GUPTA: According to your decision, for example, even Shri Ajit Singh who was expelled by the Janata Dal in December last, is still subject to the whip of the Janata Dal and if he does not carry out that whip, he will be disqualified from the membership of the House. This is the logical meaning of that.

MR. SPEAKER: Where is it you find in the judgement. If you have read it, you show it to me.

*[Translation]*

SHRI RAM VILAS PASWAN: Even yesterday you said this and a discussion is being held on it today... *(Interruptions)*

MR. SPEAKER: If you want to discuss about what was said yesterday then a full discussion will have to be allowed. I have said that in the judgement.

*[English]*

I can come to that conclusion. But after hearing you. Where is it written in the judgement? Please show it to me.

SHRI INDRAJIT GUPTA: They have been expelled by the party, which the party has openly stated; and has informed you also that the following Members have been expelled.

MR. SPEAKER: That kind of a thing, I had discussed with the Members who had given this and they have said certain things to me. I am not going to tell you those things here in the House. Now you are pinning it down. You are discussing this judgement.



You show me, where I have mentioned that.

**SHRI INDRAJIT GUPTA:** By virtue of the fact-again please correct me if I am wrong - you have apparently agreed that all these 20 people who have written to you, approached you and met you, may be allotted separate seats. That means, in your judgement - the four Members who were expelled in last December, the four Members who were expelled subsequently in January and another four Members against whom, I believe, the Janata Dal party has sought to file a petition because they violated the whip, all these people plus the twelve Members or how many, I do not know, who subsequently approached you - all are to be lumped together as one lot. I do not understand as to how it can be done. All the twenty of them, you have said, can sit separately. My only humble request to you is this. I have no doubt and, as you very correctly said, you will give this matter your fullest consideration before coming to your final decision. I would only request you to take every care - I am sure you will - to see that the process which has started now apparently is checked.

**MR. SPEAKER:** I will certainly.

**SHRI INDRAJIT GUPTA:** This process, if not checked, at some stage may invite further horse-trading and defections to bring people over. That should end. I do not want to go back to those days. I was here when 'Aya Ram Gaya Ram' business was going on in full force. We should avoid that. We should not do anything which wittingly or unwittingly encourages those kinds of proceedings. That is why I am asking you to please see. All these people cannot be lumped together in one category. They have not been expelled. Some have been expelled. Some have not been expelled. None of them has resigned. You see all the aspects.

They have stated in Mr. Ajit Singh's

letter why do we want separate seats: for better functioning in the House! What is the meaning of that? Anybody can understand anything from that. What is better functioning of the House? Somebody said, 'to prevent unseemly scenes'.

Some may have some other argument. What kind of a serious argument is this that to function in the House, we require separate seats? There is no other argument. I think, then there will be nothing left of the organised parties which are functioning in this House. I would request you to consider that. Then only give your final decision which I hope will be coming very soon. That is All I have to say: *(Interruptions)*

**MR. SPEAKER:** May I request please? *(Interruptions)* You please tell me within two minutes on the legal points. Otherwise I will ask the Deputy Speaker to sit here. *(Interruptions)* I have to go. The foreign Speaker has come.

*(Interruptions)*

**SHRI VIJAY NAVAL PATIL (Erandol):** First of all, I would like to thank you for not adjourning the House today. We are seeing especially the Janata Dal friends. *(Interruptions)* On the issue of Ayodhya, the House was adjourned for eight days during this session.

**SHRI SRIKANTA JENA:** What is he talking about?

**SHRI VIJAY NAVAL PATIL:** Yesterday also, the House was adjourned. Today, you have given them lot of opportunity. According to me, the procedure demands that when the leader to a particular party has spoken, it is not necessary for others to speak. There are microscopic parties in this House. You are also allowing all of them.

Mr. Indrajit Gupta has spoken about

anti-defection. It was not our worry. We were in a thumping majority. We had 400 Members of Parliament in this House when this Anti-Defection Law was passed. Why was it necessitated? Because right from 1977, we saw Janata Parties forming and then splitting again and again. Only in Bharatiya Janata Party and erstwhile Jan Sangh and Communist Party, there was not a split. (*Interruptions*) Please listen.

We brought the Bill when we were in a thumping majority. Then, we were 400. This disease of defection is attached to the main Janata Dal-Janata Party. (*Interruptions*) Only with Janata, it has started. Mr. Indrajit Gupta has said about Mr. Ajit Singh. Mr. Ajit Singh in his letter has claimed that they are the real Janata Dal. And that is why there is no need to say that they are defecting.

AN HON. MEMBER: He can argue his own case.

SHRI VIJAY NAVAL PATIL: We have to argue. We have seen them. We have to express our opinion once it has been allowed to express our opinion.

When you have given the interim decision, here you have also categorically stated that after your final ruling, people will be free - if they so desire - to approach the Supreme Court. The Supreme Court has given the ruling that it is appealable decision. Even then, Sir, Some of our friends at high post in some parties - I do not want to mention the name of that gentleman - have made derogatory remarks against you in the press. If they make derogatory remarks against you in the press, will it not affect your final decision? When an interim order is passed by the court and the proceedings are going on and the judge is to give his opinion, in between, something appears in the press which is derogatory. I do not want to mention everything that has appeared in the press. But I would like you to take cognisance of that

also. You have reserved your ruling on the privilege motion which I have moved. There may be technical difficulties. So, I would also like you to give serious attention to my privilege motion and give the ruling subsequently.

MR. SPEAKER: Mr. Saifuddin Choudhury, be brief.

SHRI SAIFUDDIN CHOUDHURY (Katwa): Sir, I will take only one or two minutes. I thought you were not calling me because defections on the basis of money and allurements of posts do not take place in my party. When the Anti-Defection law was brought into being, it was contemplated that the kind of immoral trafficking of MPs taking place from one party to the other party should be prevented and we had to do something to prevent that. Now, the moral question that comes is why this kind of fluidity in the situation should be kept alive with the interim order. Should the Anti-Defection law be interpreted in such a manner that would give a boost to the defectors and that would keep alive the process of defection on the basis of money? Now, allegations have come and those allegations have come in the open. Money is given; lakhs and lakhs of rupees are given. We are the decision-maker of the country and if we are purchased and sold on the basis of money, then what about the morality of the country? That is the vital question that comes. I am not going into the technical question. Mr. Pawan Kumar Bansal has said that individual Members file their statements as to which party they belong to. That is not the end of the matter. That has to be ratified by the leader of the party and on that basis, a block of seats are given. If that is so, then Mr. Pawan Kumar Bansal may write that he belongs to CPI (M). And I will not endorse that. This type of step should not be taken. The statement that individual members of a party make is not final. There is a party system and the highest post of this House cannot be interpreted in such a manner

that will undermine the party system in our country. If the people who are MPs in the House are expelled outside, then the information in that regard given to the Speaker by the relevant leadership of the parliamentary party has to be taken note of.

MR. SPEAKER: Saifuddinji, if you want that thing, you introduce it in the Constitution.

SHRI SAIFUDDIN CHOUDHURY: That is the rule and tradition.

MR. SPEAKER: This is not the rule.

SHRI SAIFUDDIN CHOUDHURY: That has to be.

MR. SPEAKER: I agree with your position but you have it in the Constitution.

*(Interruptions)*

SHRI INDRAJIT GUPTA: They have been expelled outside and not here. How can there be dual personalities?...*(Interruptions)*...

MR. SPEAKER: If what you do under the party constitution has to be accepted in the House, then you say it in the Constitution. I will accept it.

SHRI SAIFUDDIN CHOUDHURY: That is why I am telling you, Sir. You take the instance...

MR. SPEAKER: It is a legal point. I will discuss it with you afterwards.

SHRI SAIFUDDIN CHOUDHURY: If some of the MPs are expelled by the party outside, the right thing to do is that I should inform you that I do not want them to be in my party because they will in that case remain bound by our whip. It is my moral duty to inform you that they do not belong to my

parliamentary party; allot them different seats and then you should do that. We have to follow certain rules, norms and traditions. We cannot do it arbitrarily.

MR. SPEAKER: This is a legal point.

SHRI SAIFUDDIN CHOUDHURY: That is why, I say...*(Interruptions)*... If you are not willing to listen to me, I will not speak in the House.

MR. SPEAKER: I will just keep quiet. But Mr. Saifuddin, this is being very unfair to me.

SHRI SAIFUDDIN CHOUDHURY: But I am pained, Sir.

MR. SPEAKER: You speak as much as you want. This is blackmailing me in the House itself. You speak as much as you want.

SHRI SAIFUDDIN CHOUDHURY: I do not want to speak on the points made already.

MR. SPEAKER: You speak and I will not object to your speaking. It will be a matter of record. But what you are saying is not correct.

SHRI SAIFUDDIN CHOUDHURY: I decided to speak one-tenth of what he spoke today. And that is over.

MR. SPEAKER: Saifuddinji, this is very unfair to me. You take as much time as you want. But this is not correct.

SHRI SAIFUDDIN CHOUDHURY: I have made all the points which I wanted to make. There is no other point.

SHRI SRIKANTA JENA: Mr. Speaker, Sir, first let me spell out the position of our party...*(Interruptions)*

THE MINISTER OF STATE OF THE  
MINISTRY OF STEEL (SHRI SONTOSH  
MOHAN DEV): In 1964, there was a split in  
CPI(M) and CPI. What happened then? May  
I ask Shri Saifuddin?

SHRI SAIFUDDIN CHOUDHURY: Our  
anti-defection law has very rightly  
recognised... (*Interruptions*)

MR. SPEAKER: Now, Please sit down.  
I called Shri Jena.

SHRI SRIKANTA JENA: Let me clarify  
one position. Let me say that from the begin-  
ning, we are not pressurising anything on  
you. We are only recording our protest and  
we are confronting your decision, which,  
according to us, is not correct. I will only draw  
your attention to the letter written by your  
Director, Shri Ahluwalia on 7th July 1991,  
when the Tenth Lok Sabha was constituted:

"To

Shri V.P. Singh.

About the sitting arrangement in the Lok  
Sabha, I am directed to state that the Speaker  
is pleased to allot 56 seats as per the state-  
ment and the sitting plan of the Lok Sabha,  
enclosed, for allotment to Members of Janata  
Dal in Lok Sabha."

If you recognise those 20 Members as  
Janata Dal Members, you have no right to  
allot them seats again, unless Shri V.P.  
Singh writes to you, because you have al-  
ready allotted 56 seats to the Janata Dal  
block. This is your own letter and you are  
diluting your own letter. I say this because  
without even consulting us, and without tel-  
ling us that these are the 20 Members to  
whom you are allotting separate seats, you  
have taken such action. This is not a letter  
written to Shri V.P. Singh alone. Letters on  
the same line are sent to all the political  
parties. In this House, is this the way the

political parties function. Only the leaders of  
the respective political parties write to you  
and accordingly, you allot the seats. My  
objection is, how can those Members write to  
you saying that they are in Janata Party but  
they do not recognise their leader? If they do  
not recognise their party leader, let them  
throw the leader out, by voting in a party  
meeting. Without doing that, if you recognise  
them and allot them separate seats, then  
you are interfering in the internal party af-  
fairs. That is our grouse. (*Interruptions*)

SHRI PAWAN KUMAR BANSAL: He  
cannot talk in such a way. (*Interruptions*)

13.00 hrs.

SHRI SRIKANTA JENA: Sir, we respect  
you and we have nothing against you. But  
our only objection is that you are interfering  
and you are diluting your own Secretariat's  
letter, by giving them separate seats.

As regards the whip, on 11th I wrote to  
you that four Members had violated the whip.  
Under the Tenth Schedule, under the Anti-  
defection Law, you have nothing to do. You  
only have to see whether whip was given to  
them or not and whether they have voted or  
not in the Motion of Confidence. And you  
should have given your decision by this time.  
Our apprehension is that these Members  
are brought in en bloc, to enable them to  
make it 20m, so that there can be a split in the  
party. Your office should not be utilised to  
enable them to effect a split in our party. This  
is our grouse.

SHRI PAWAN KUMAR BANSAL: He is  
crossing the limits of discretion.

SHRI SRIKANTA JENA: Let me com-  
plete. In view of this, I request you that as  
recognised political parties in this House,  
please allow us to allot our seats. I request  
that you may please withdraw your order

giving them separate seats. (Interruptions)

SHRI A. CHARLES (Trivandrum): Sir, this is too much..(Interruptions)

MR. SPEAKER: MR. Charles, please allow me to conduct the House. I don't want to subject myself to this kind of agony.

(Interruptions)

[Translation]

SHRI NITISH KUMAR: Mr. Speaker, Sir, you have allotted us seats adjacent to Ajit Singh group without any request from us...(Interruptions)

If you have done it for better functioning of the House then I would request you to allot us seats adjacent to Shri Advani.

This is my request to you.

MR. SPEAKER: If this is your sincere proposal, you can talk to them.

SHRI NITISH KUMAR: My submission is this that you have allotted me a seat without taking in confidence the leader of my party...(Interruptions)

MR. SPEAKER: All of us are sitting in the House. We are not isolated from one another.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD): Sir, the Deputy leader of Janata Dal is defecting to the B.J.P. This should be noted.

MR. SPEAKER: No, no.

SHRI MOHAMMAD ALI ASHRAF FATMI: Why are you calling the defectors. A discussion is being held on anti-defection

Bill today.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M.M. JACOB): Sir, a Member cannot call another Member a 'defector'. This should be expunged from the records...(Interruptions)

[Translation]

SHRI SURAJ MANDAL (GODDA): First of all please tell him to resume his seat.

MR. SPEAKER: I have given you a chance to speak.

SHRI SURAJ MANDAL: My submission is that discussion is going on in the House under the Anti-defection law and the Members are leveling charges on one another. We are blaming one another. Just now Shri Paswan, Shri Jena and Shri Hari Kishore Singh were speaking. But who started all this? Who is responsible for it, the congress party or the Janata Party?... (Interruptions) Who took how much and the way it was done..(Interruptions)

MR. SPEAKER: You please address the Chair while speaking and do not speak to them directly.

SHRI SURAJ MANDAL: How many crores were paid by the Janata Dal to force defection of two M.Ps. of our party. Not only this, they also gave in writing about it here separately..(Interruptions)

Secondly, Mr. Speaker, the Members of Janata Dal..(Interruptions)\*

MR. SPEAKER: Whatever has been

\*Not recorded.

said about the other speaker would not go on record.

SHRI SURAJ KANDAL: This can also happen in your case.

MR. SPEAKER: You can hurl abuses on me, but whatever has been said about the other speaker would not go on record.

[English]

This is not forming part of record.

[Translation]

SHRI SURAJ MANDAL: When seven members gave in writing to the Speaker on August 5...

MR. SPEAKER: No, this pertains to another legislature.

SHRI SURAJ MANDAL: I am not mentioning the name of any Assembly here.

MR. SPEAKER: The name of any other legislature we would not go on record. You should not discuss matters relating to other legislatures here in this House.

SHRI SURAJ MANDAL: I am talking about the morality of Janata Dal, Shri Saifuddinji has mentioned...

MR. SPEAKER: Alright, but you cannot refer the name of anyone.

SHRI SURAJ MANDAL: Sir, if there are a total of a eighteen Members in the House and seven Members give in writing to the Speaker that they consider one Member who is unattached as their leader what is his reaction. He calls the other Members and they give in writing that the unattached Member should be included in their party and they designate him as their leader. Then, the elected leader of the party is removed.

Where is the sense of morality? This kind of horse trading has started in Bihar and Janata Dal has started it. There is a proverb...

**Jis Ka Joota Usi Ke Sar  
Dil Hai Khota Bada Shahar**

Mr. Speaker, Sir, this aptly describes the situation in Bihar...

(Interruptions)

SHRI MOHAMMAD ALI ASHRAF FATMI: Mr. Speaker, Sir, you have just said that two previous Speakers had declared them unattached. You have now used the word 'Separate'. Another Speaker may use the word 'Suitest' or 'nearest' in case such a thing happens again and say that I am allotting them nearest seat. What does it mean? Mr. Speaker, Sir, you may call them unattached, separate, suitest or nearest but my submission is this from where has this separate seat come? Mr. Speaker, Sir, this is serious question. You have said it is a separate seat, another speaker may give it another name... (Interruptions)

MR. SPEAKER: You have raised a very good and pertinent question. I would think over it and then give a reply. (Interruptions)

[English]

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): Sir, I will not take much time.

Firstly, it is just a reiteration. I was in the Rajya Sabha along with Mr. Advani at that time when the discussions were taking place on the anti-Defection Bill. I want to reiterate that he has exactly reproduced what had happened at that time. There was that provision and that was withdrawn because of the interest involved at that time.

Secondly, when that Bill was at all

generated in the House - we must understand that also - we were in charge of keeping the polity and political democracy in the country, in a clean manner which we have not done. It was therefore generated that defection has become such a sore on our body politic that there should be some measure to at least contain that. All action subsequent to that was guided towards that objective. When we talk of amending the anti-Defection Bill, that was also in the same spirit. Even after the adoption of this Act, perhaps, there were loopholes. Therefore all actions that we take within the House should have that kind of an aim and that should not help the forces of defection, forces of Ayaram-Gayaram, rather, it should be opposite to that; as Mr. Saifuddin Choudhury has eloquently indicated that it should be in our perspective.

Thirdly, I want to make a point viz. a political point. He has said that there is only the legal point. We come here as people who believe in true politics and where we can do something for the country. Therefore, the political aspect can never be allowed to be forgotten, at least, in this House.

Fourthly, I want to make a point on this. You are frequently referring to the Constitution. Any proposition can be related to the Constitution not in one manner, not in two manners but in three manners. The statement can be a part of the Constitution. There can be a second position. We all know this. There can be something which is anti-Constitutional. Therefore, that should be objected to. But, there are various other things which are not embodied in the Constitution nor are anti-Constitution, which can be described as non-Constitutional. Many things are not provided for in the Constitution. I am giving you a very frivolous example. For example, the Constitution does not provide that there should be enough atmosphere to breathe within the House and therefore, we

have the right to take away the entire atmosphere so that we can become breathless. There are many things which are not provided for in the Constitution. The point is to see whether that is against the spirit of the Constitution or the letter of the Constitution.

The Constitution, as has been pointed out, does not provide for a political party, yet there is an election provision which recognises a political party, gives a symbol; and we do not consider that to be anti constitution, but see that this is not inconsistent with the Constitution.

Exactly, similarly, here, very frequently, we talk about the development of a multi-party democracy as one of the things we are proud in the country. Therefore, the party system has to be strengthened; and every step that you take inside this House also strengthens the party. I will give you an example. When you give seats - already he has mentioned that when statements have been made by individuals, that have to be corroborated by the leader of the party; and the leader of the party is a designated person. Therefore, the leader of the party certifies that somebody belongs to the party and therefore he is included in that party. It does not stop there. Supposing you declare him as a Member of our party; and we want to denounce him that we cannot take him. Secondly, the seats are given, blocs of seats are given to a party that should also be noted. In order to strengthen party democracy, we are allotted 36 seats in the House. Therefore, it is left to the party to allot those seats in terms of every single member of the party; this is done by the party; this is not done by the House. We submit a list to the Speaker or the Secretary-General and that is accorded recognition. This also strengthens the party functioning inside the Parliament. Therefore, what I submit to you is not to try to clinch the whole question in a sense,

in a way which will affect the functioning of the parties here.

[English]

In the instant case, what has happened? In the instant case, some of the Members have been expelled from their party. You have given recognition. (Interruptions)

MR. SPEAKER: I will give you as much time as you like in the Chamber please. I will hear you; both of you I will hear - yourself and Shri Guman Mal Lodha.

[Translation]

SHRI A. CHARLES: Just to defeat the Anti-Defection Law, a few Members have been expelled by the party. That is a fact of the issue that four Members have been expelled.

SHRIGEORGE FERNANDES: I will not raise political issues. I will confine myself to the legal issues raised by you. (Interruptions) I will not discuss constitutional issues... (Interruptions)

SHRI NIRMAL KANTI CHATTERJEE: I appreciate your understanding, but the Speaker has not understood as you did. He has already recognised at Istetast four Members in January and offered them separate seats.

[English]

MR. SPEAKER: I will hear you; I will record your arguments in writing please.

(Interruptions)

Seats are allotted in terms of a statement made by the leaders of the various political parties and not in other way. Therefore, I submit, when you recognised that four persons should be detached from a particular party, you had incidentally decided that they no longer belonged to that party whose leader had indicated to you that they were expelled.

[Translation]

MR. SPEAKER: I will call you.

(Interruptions)

Therefore, I submit that, as has been desired by the Janata Dal, a decision on the question of defection is urgently called for; and only solution on that score can help party democracy service and help Parliament continue functioning in a spirit which should be the correct one from the Parliament's point of view.

SHRIGEORGE FERNANDES: How can this take place... (Interruptions)

MR. SPEAKER: I will hear your arguments and arguments of all the leaders and record them in writing and will give time to you.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I will not take more than five minutes. (Interruptions)

MR. SPEAKER: Shri Sobhanadreeswara Rao Vadde will be the last Speaker.

MR. SPEAKER: I will give you five minutes' time.

[Translation]

(Interruptions)

SHRIGEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, Kindly allow me two minutes time to speak.

SHRI SURYA NARAYAN YADAV: Mr. Speaker, Sir, we should also be given time to speak.



SHRI SATYA PAL SINGH YADAV (SHAHJAHANPUR): Mr. Speaker, Sir, all are speaking against us, therefore, we should also be given time to speak.

MR. SPEAKER: I will also give time to you to speak.

Yes please.

[English]

(Interruptions)

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): Mr. Speaker, Sir, thank you for giving opportunity to me to speak on this very important item. I would like to humbly submit with all due regards to you, that I recollect the date when you had invited the leaders for various political parties to discuss the matter of the Supreme Court judgement regarding the Anti-Defection Act.

Now, as per the Act, the final authority was vested with the Speaker of either the Parliament or the respective Legislative Assemblies. Then the Supreme Court had made a pronouncement and you had invited all the political party leaders suggesting that let us honour the verdict of the Supreme Court.

I recollect and with all due respect to you, I would like to submit that the interim order, that has been given, has given the impression to the Members, because of the earlier pronouncement of the previous Speakers of Lok Sabha, the fact that four Members have been allotted separate seats basing upon the letter of the leader of their party. Also subsequent allotment of four separate seats to four more Members and now clubbing 12 Members...

MR. SPEAKER: Mr. Rao, I will hear that in detail in the office, please.

SHRI SOBHANADREESWARA RAO VADDE: Now clubbing 4+4+12 has given wrong signals. That is why, we are all very much agitated and this will lead to subverting the democracy of the Parliamentary party system. This will cause great harm.

Already, the Ruling Party is making strenuous efforts to split the political parties in the opposition and increase their numbers because they were short of sum crucial numbers. With the very objective, they have brought split in our own Telugu Desam Party and other political parties in this House.

So, my humble submission to you is, as the custodian of this House, which is the highest body in this country, to protect the parliamentary democracy and the functioning of the political parties. Now, the Tenth Schedule is there and also Party Constitution is there and as per the practices that have been followed till now, you have to take a decision and give an impression that not only justice is done but also the people should feel that justice is done. On that aspect, you kindly take a decision as early as possible. It is because you are not clinching the issue earlier in respect of the four Members and again in respect of the other four Members.

Now, a very extraordinary situation has been created, I urge upon you to take immediate action on this.

[Translation]

SHRI SATYA PAL SINGH YADAV (Shahjahanpur): Mr. Speaker, Sir, the House is discussing this issue since morning. I would like to raise a few legal points. Some Members have said that the former speaker had used the word "unattached" and you have now used the word 'separate'. There is neither the word "separate" nor the word 'unattached' in the Tenth Schedule. I would like to ask you when we the four Members

were allotted separate seats for the first time at that time they did not raise any objection. If they had any objection to the use of the word separate and this decision was not right they should have raised this objection then and there instead of raising it now. If you have allotted us separate seats only because the proceedings of the House may run smoothly and there is no uproar in the House, even then we continued to be the Members of the Janata Dal. If we were not served any whip, we were not at fault. It was their responsibility to serve whip to us. Had we disobeyed that whip, they should have objected to it. Now they are pressuring as to why you are not giving your decision about these Members. Sir, your decision is absolutely interim. The House is in session. If you have taken any decision under the existing circumstances, it is quite judicious. Besides, if seven Members disobey the whip, it has been done arbitrarily for four Members. Are we not condoning them. You have condoned three Members. If they want such a decision, then it is a different thing. They will have to listen to it as to why were the four Members not able to present themselves and obey the whip there must be a reason behind it. They will have to clarify legal aspect. But today they are forcing us and saying that they remained in the party like bonded labourers with us. We have learnt it very well. Shri V.P. Singh too had learnt it when he was in the Congress Party. At that time, he used to honour the whip of Congress and it was said about us outside the House that whip is disobeyed in the House and abusive language is used for the Congress. We have learnt it. We are passing time for seven months and we have not been regarded as Members of the party. I would like to know from you that if there was some delay in this decision. You should have raised it within these seven months. All were the Members of the Janata Dal. If we, 20 Members, have written to you under Tenth Schedule, we had no other option at that time. You must give your final decision after considering all as-

pects. The way they are pressurising. I think, if any action is taken under their pressure, then it belittles the importance of the democracy. I make an appeal to you not to bow down today nor in future.

SHRIGEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, I hope I will have not to speak too much. I have already said that I will not speak on any political issue. You have asked a few question in the letter you have sent.

[English]

"Under what provisions of the Tenth Schedule of the Indian Constitution?" etc.

[Translation]

I will not go in all these things. The fourth question in it is:

[English]

"Under what Rules of Procedure followed by the House can a Member or Members be expelled by the party? Mr. Speaker, under these rules, the Rules of Procedure of the House.

[Translation]

SHRI RAM SUNDER DAS (Hajipur): Mr. Speaker, Sir, my question relates to rules, kindly listen to me at the moment. You want to run the entire House. Will all the Members speak on that or they will reply to the paper. If so, all Members should be given the right to make a reply in the House. Are you going to allow all the Members?

[English]

MR. SPEAKER: Your point of order is very valid. But you know in extraordinary circumstances it is being done. Your point is very valid. I have upheld it.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I want to draw your attention to Appendix-4. It is compulsory in 1(A) under Rule 3 on page 181 that the parties shall inform its Members under Form, I - after they are elected, within few days - the time is specified there. But the matter does not end here. It is obligatory under rule 3(1) (B) -

[English]

"a copy of the rules and regulations (whether known as such or as constitution or by any other name, of the political party concerned."

[Translation]

Mr. Speaker, Sir, further Rule 3 (1) (C) says:

[English]

"Where such legislature party has any separate set of rules and regulations (whether known as such or as constitution or by any other name)' also a copy of such rules and regulations."

[Translation]

When a legislature party has its own Rules or the constitution and if we give them due regard, then the party gets recognition under these rules and the question as to under what Rules there is a right to expel a Member from a party ends there. Under this rule there is schedule provision for it in Appendix 4,3 (1) (B) and (C)

Mr. Speaker, Sir, now the question is whether any expulsion by any party will be accepted under the Tenth Schedule or not. I think this matter ends with Rule 3 (1) (B) and (C)...(Interruptions) Suppose, the matter does

not ends there in your opinion then I would like to draw your attention to sub-rule (4) of rule 3. Now we have submitted a list to you. After submission of the list under Form I, if you raise a question under what rules the expulsion was made, you may refer to Rule 3 sub-rule(4) for that because I have taken any action against any member of my party for his expulsion under the constitution of my parent party or under the rules or constitution of my legislature party.

[English]

Rule 3 sub-rule (4) says:

" Whenever any change takes place in the information furnished by the leader of a legislature party under sub-rule (1) or by a member under sub-rule (2), he shall, within thirty days thereafter, or within such further period as the Speaker may for sufficient cause allow, furnish in writing information to the Speaker with respect to such change."

[Translation]

Now, which change is this, this change is for the whole life (Interruptions) every year, after one year or two years...(Interruptions)

[English]

MR. SPEAKER: If a Member expires; if other parties join with that party..(Interruptions)

[Translation]

SHRI GEORGE FERNANDES: It has been talked about.

[English]

MR. SPEAKER: That does not mean that under the party you can expel.

[Translation]

SHRI GEORGE FERNANDES: You have given half of the reply to my query and are refusing to give the full reply. *(Interruptions)* It was merged and the total was tallied...*(Interruptions)*

MR. SPEAKER: No-no, not like this. *(Interruptions)* You have to tell me as to now the authority to expel is derived from it.

[English]

SHRIGEORGE FERNANDES: Rule (b) and (c) - why do I provide my constitution to you?

MR. SPEAKER: That is for knowing who is your leader. That is for knowing to whom you have given the tickets. I will leave all these points open. I will hear you patiently in my Chamber.

I really appreciate the arguments which you are putting forth. In fact if you had argued the case in the House itself, it should have been done as you are doing now. I can quite see the points which you are making. I am not accepting it at this point of time. My saying this should not be taken as an acceptance of it. I would very much like to hear you. You would have done me some sort of a favour if you come and argue before me. But then these are so nice points, intricate points, that it would be very difficult for you to put before me all these points in five minutes' time and for me to elicit more information; either for you to convince me or for me to convince you. so, I plead with you. You are making very good points. I have not closed my mind on it. You please give me in writing, and argue before me. I will not decide it before hearing you.

[Translation]

SHRI GEORGE FERNANDES: it is all right, I have said in the beginning that I am not indulging in politics.

*(Interruptions)*

[English]

MR. SPEAKER: That is a very good point. I appreciate it. But then, the only thing is that it cannot be decided in five minutes.

[Translation]

SHRI GEORGE FERNANDES: Now I am sure that you have agreed to half of that what I have said. *(Interruptions)*

MR. SPEAKER: It is not a case made by a lawyer, it is a matter of cleverness. *(Interruptions)* Never quote such things in future.

[English]

I have said that I see some points. I have not made any decision. I will hear you. Either you convince me or I will convince you.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker Sir, it is alright, therefore, I am concluding here and I am not going to complete my statement.

MR. SPEAKER: I have not agreed to the half of it or the whole of it.

SHRI GEORGE FERNANDES: Therefore, I am not going to complete my statement, I am concluding here only.

MR. SPEAKER: You are trying to tell that the party constitution does not come in the way.

[English]

and you are rightly doing this. I will hear you on this point. You have to convince me.

[Translation]

SHRI GEORGE FERNANDES: I have observed the argument given by you..

MR. SPEAKER: It is not final.

SHRI GEORGE FERNANDES: That is correct and I do agree that you have not taken any decision.

[English]

MR. SPEAKER: That is correct. Thank you very much.

[Translation]

SHRI GEORGE FERNANDES: It seems to me that the way you have raised the question the rules and other concerned things are being over looked. I have this doubt and that is why I have submitted it humbly...

MR. SPEAKER: I appreciate your argument.

[English]

SHRI GEORGE FERNANDES: I will hear you. Thank you very much.

[Translation]

SHRI CHANDULAL CHANDRAKAR (Drug): Mr. Speaker Sir, I am on a point of order. Since long, this matter has been under discussion. You know it very well that more than one lakh rupees per minute are spent on the House. We should be informed as to how long the discussion on this issue will go

on? It would be better, if this discussion takes place in your Chamber. Those who have been defectors till date only they have started defection in the first month and therefore, please do not indulge in it and whatsoever be the discussion, it should be held in your chamber; it should not be discussed further.

SHRI NITISH KUMAR (Barh): They have developed the habit of fixing price for everything. (*Interruptions*)

SHRI CHANDULAL CHANDRAKAR: You are going on spending, the price should be fixed. (*Interruptions*)

[English]

SHRI SOMNATH CHATTERJEE (Bolpur): Mr. Speaker, Sir, here I wish to make it clear that we are somewhat upset. I made it very clear yesterday evening. This is not against Shri Shivraj V. Patil, as such. Please do not misunderstand that because your ruling or your decision so far is an interim decision. According to us it seriously affects the functioning of the parties inside the House and also raises certain questions which are disturbing us.

It is being treated to be a matter of disqualification under the Tenth Schedule. The whole thing has been initiated by a letter which appears to be an undated letter from 24 Members and signed by 20. There are three paragraphs in the note. In the first paragraph, they have stated that they are not happy with Shri Vishwanath Pratap Singh. The second paragraph is one line sentence I quote:

"Therefore, we want to sit separately in the House". The third para says and I quote:

"We request you to recognise us as Janata Dal members and allocate us sepa-

rate seats in the Lok Sabha. This is in consequence of a split in the political party and our claim under Para 15 of the Symbols Order to be pressed in an application before the Election Commission that we are the original Janata Dal."

You are not concerned with the symbols and what they wish to place before the Election Commission. The jurisdiction of the Speaker can be invoked under Clause 6 of Tenth Schedule. It says and I quote:

"If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House..."

They have not raised a question of disqualification. In this letter how do you invoke your jurisdiction under Clause 6.

MR. SPEAKER: That is correct. It is a very good point. You have made a very good point and that was the point which was made by Shri Indrajit Gupta. If it is coming from the leader of your stature and jurist of your stature, I must accept it. This is a very good point. This application itself is not under the Tenth Schedule, but the written statement is under the Tenth Schedule, which you have mentioned.

SHRI SOMNATH CHATTERJEE: I am glad that you have raised it. This counter statement is not a counter claim.

MR. SPEAKER: It is not a counter claim.

SHRI SOMNATH CHATTERJEE: If they withdraw the counter claim, you dismiss it.

MR. SPEAKER: I will.

SHRI SOMNATH CHATTERJEE: You reject it.

MR. SPEAKER: Now, you withdraw it.

SHRI SOMNATH CHATTERJEE: Your jurisdiction is invoked only on the basis of their letter. If that is so...

MR. SPEAKER: Somnathji, I am really a little confused. As a good lawyer you think that my point is correct but, at the same time, as a good politician you have to give the argument. My difficulty is that.

SHRI SOMNATH CHATTERJEE: Sir, we are not arguing in a vacuum here. It is not a vacuum here...*(Interruptions)*.

*[Translation]*

SHRI NITISH KUMAR: As you have asked comments from the party, that is why we have given...*(Interruptions)*

*[English]*

SHRI SOMNATH CHATTERJEE: Sir, you have taken a decision on the basis of this letter. There is no other thing. Your jurisdiction is invoked only if a question on disqualification is raised.

MR. SPEAKER: Have I said this is a decision? I said this is an order.

SHRI SOMNATH CHATTERJEE: Order and not a decision.

MR. SPEAKER: I have written that it is an order, it is not a decision. You shall have to distinguish these things.

SHRI SOMNATH CHATTERJEE: Therefore, let us proceed on the basis that you have not decided anything.

MR. SPEAKER: Yes.

SHRI SOMNATH CHATTERJEE: But you have given them seats...*(Interruptions)*.

MR. SPEAKER: That is under the rules. It is not under the Tenth Schedule.

SHRI SOMNATH CHATTERJEE: Very well, Sir. Then we are narrowing down the scope of our discussion. It is a question of your allocation of seats.

MR. SPEAKER: That is correct.

SHRI SOMNATH CHATTERJEE: Therefore, it is not a case of split. You have yourself been kind enough to state that they have not been able to make out a case for split.

MR. SPEAKER: No. You read it very carefully.

SHRI SOMNATH CHATTERJEE: May I read your observation, Sir?

MR. SPEAKER: Yes, you must read it.

SHRI SOMNATH CHATTERJEE: In D1 - this celebrated document is D1 - the signatories have not claimed that they have split from other members of the Janata Dal Party. Then, Sir, one more sentence I will read out.

MR. SPEAKER: No, you please complete it. Not like that.

SHRI SOMNATH CHATTERJEE: They appear to be claiming that they are the main and original party. They asked for their recognition.

MR. SPEAKER: What that means is not very clear. In the content of D1, they asked for seats.

SHRI SOMNATH CHATTERJEE: Then, Sir, 11 is very important. They asked for seats for sitting separately for the purpose of their working in the House. From the seats where they are sitting, they cannot work. Very well. So, 11 is very important. D1 does

not give any other significant information which is relevant to the pointed issue. They are not saying 'split'. They are not giving any information. They only want to sit separately. For what purpose? As I said, there are so many dissidents in Congress. They thrive in dissidence. They want to sit separately... (Interruptions).

SOME HON. MEMBERS: No, no.

SHRI SOMNATH CHATTERJEE: The friendship of some of them with Shri Advani's party is known. Sir, it will be a mockery please excuse me - if in the name of my not liking a leader. I sit wherever I like and you put anybody anywhere you like. If Saifuddin a young man, may like to sit somewhere else, what can it do?

SHRI MURLI DEORA (Bombay South) Shri Nirmal Chatterjee, not Saifuddin.

SHRI SOMNATH CHATTERJEE: How do I control him? what is the remedy? What will be the consideration? What will be the standards to be applied? It will amount to encouraging people to have all sorts of ideas. They may be happily treating themselves elsewhere. If they are being looked after well there, they will come and say they do not want to sit near V.P. Singh, they want to sit near Advani Ji.

MR. SPEAKER: Somnath Ji, my difficulty also you realise.

SHRI SOMNATH CHATTERJEE: As said yesterday, I am not a Minister and I have never been a Minister. I like to set by the side of Ghulam Nabi Azad, my nephew. Please give me that seat.

MR. SPEAKER: Somnath Ji, you hear me for one minute. Do not avoid to hear me. You want me to give separate seats under the rules at the instance of the leaders, but

you do not want me to give separate seats to others.

SHRI SOMNATH CHATTERJEE: How can it be? My members will behave truant and you will go on encouraging them. How can it be? If they do not accept me as their leader, either they go out or they must be under my discipline. They disciplinary authority party-wise is not with the Speaker, the disciplinary authority inside the House is me, so far as my party is concerned; Advaniji, so far as BJP is concerned, not anybody and everybody.

MR. SPEAKER: Is that the view of other leaders also?

*(Interruptions)*

SHRI LAL K. ADVANI: Sir, you have already said it so far as seats are concerned. Going by convention, we have always been told that these are the 119 seats. You allot those seats. This is the convention. It is given in writing.

MR. SPEAKER: It is correct.

SHRI LAL K. ADVANI: In case their leader has asked. You have been arguing that because their leader has asked for separate seats to be given to these four, how could you deny when Members ask for separate seats. I said the leader asked only on a specific situation when the party had expelled those four Members. And in this case also if the members said that they have resigned from the party, they are certainly entitled to sit separately. *(Interruptions)*

SHRI PAWANKUMAR BANSAL: Para

3 of the letter gives reason. Please see it. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: But do not bifurcate the party yourself. *(Interruptions)* Please do not trifurcate the party sitting from that chair. Sir, you are sitting higher, above us. You should maintain yourself in that pedestal. You do not come down to the party level. This is the glory of that chair that you are occupying. Therefore, Sir, may I make a request to you... *(Interruptions)*

SHRI SOMNATH CHATTERJEE: My personal respect to you will not be diminished by their shouting. Therefore, let them not take up your cause. *(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM): Why not? *(Interruptions)* That is objectionable. We are all Members of this House. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: Sir, you have yourself had a doubt in your mind. It is in para 40 of your order. I quote it:

"What is the legal implication of their sitting separately at the instance of the Leader of the Party or at their own instance in groups of fours or in a group of twenty is to be clearly determined".

Therefore, without that how can they keep sitting separately?

MR. SPEAKER: That is why it is an interim order.



SHRI SOMNATH CHATTERJEE: Sir, may I make a very very humble request to you? So many doubts are still in your mind. Please keep it in abeyance and give a final decision.

MR. SPEAKER: That is correct.

SHRI SOMNATH CHATTERJEE: Therefore, I earnestly appeal to you. We know that you will apply your mind in the final stage. But when so many doubts are still in your mind, please keep it in abeyance. Do not withdraw it. Please keep it in abeyance. Let them go back to their own seats for a few days. (Interruptions) Please go back to your seats. Sir, if they do not like, we shall provide buffers. We should informally provide buffers. I hope they do not indulge in scuffling. We shall provide buffers to them. I can assure you. Therefore, I submit that so many doubts have been raised and every leader has expressed doubts. Therefore, my request to you is to keep it in abeyance and to take your own time to decide. Thank you.

SHRI GUMAN MAL LODHA (Pali): Mr. Speaker, Sir, it appears that there has been a lot of confusion on account of mixing up of the two things. One is, under Rule 4, the hon. Speaker has got the authority to allot the seats. That is our view in the House. Once that authority is exercised by hon. Speaker, no court can go into that matter because it is the internal arrangement. If that would have been so simple, then there would have been no requirement of any such debate or discussion or such controversy which is being raised now here.

The whole problem has arisen because

under the law of defection, the rules which have been framed by the House, require that an application should be made in a particular form having the verification etc. and that application - is to be determined and adjudicated by the hon. speaker, according to the rules which require hearing of the other side and also taking up of the evidence, if it is necessary and then adjudicating the matter.

Sir, as our leader has very correctly put it, the defection has been defined there. There are exceptions to that. The exception is a split. Now the whole crux of the matter is that unfortunately, without casting any aspersion and imputing any motive, the simple order which your honour has passed - which is a very simple and one-line order - is being criticised. I quote your order:

"For the purpose of functioning in the House, for the interim period, until this matter is finally disposed off, the twenty Members who have signed the D1 in my chamber, are permitted to be seated separately from other Members of the Janata Dal Parliamentary Party."

This is a one-line order which is here before us. The problem is that four Members were allowed to sit separately, earlier by your separate order. Where was the occasion to amalgamate or to mix up these four with the other sixteen Members? They are already sitting there. If your honour would have said that all the 16 persons who have applied wanted separate seats for themselves and till you decide the matter finally, so far as the application for defection is concerned which has been given by the Janata Dal leader - you permit them to sit as a bloc of 16 without any other implications, it would have been very simple.

Then, Sir, the matter would have been very simple. This number 20 has sent a signal to the country that there is something going on account of which these 20 are treated, which indirectly would reflect that there is a split which comes in the exception and saving them from disqualification of this Section. This is the whole matter. Normally, the hon. Speaker's adjudication, decision and orders are not to be discussed, not at all to be commented, upon, much less to be adversely commented upon. But, Sir, may I respectfully submit, as our honourable Leader submitted, that apart from the question of departing from the earlier tradition — that is a different matter — this amalgamation of 16 plus 4 has created the whole problem and, therefore, Sir, I would submit that the signal which has been sent to the country as a whole is that 'look here....' — because, Sir, the demand was made by my friend, Mr. George, earlier that defections have been caused on account of payment of huge funds and an inquiry should be conducted. Well, Sir, inquiry should be conducted or should not be conducted is a different matter. That was on a moral standard, standard of ethics, standard of political morality, that we are not here to encourage defections because that is a very bad phenomenon in a political society. But, Sir, that we have not accepted for some reason or the other. It would have been better, I personally feel, if an inquiry is made because there are allegations and counter-allegations. They say that Rs. 50 lakhs have been paid; the other persons say that 'Mr. V.P. Singh was acting as an autocrat, a despot or a monarch, and we are not prepared to surrender our entire things to him and our discipline etc.' Now, Sir, one or the other may be correct. But the entire country today is concerned with the fact that it appears that there has been a lot of criticism in the leaving of 20 Members — 4 earlier and 16 now. Therefore, Sir, I would respectfully submit that the other problem is

as you stated why. I may submit that Your Honour discussed in the chamber certain things. It is very well, discussion is all right. Now, here an impression was given that you have decided that whenever a Member is expelled he would continue to be a member of that Party. That is not your finding, that is not there. (*Interruptions*). Mr. Bansal I am saying, it is not there, but it was discussed in the chamber.

MR. SPEAKER: Supposing that kind of idea occurs to me, I want your explanation on that.

SHRI GUMAN MAL LODHA: Sir, *prima facie* that may be one view or the other view, and since Your Honour is yet to adjudicate on that point, that would be adjudicated after hearing both the sides and after also consulting the law and legal luminaries etc. It is a serious matter. So, I would say that at the moment...

MR. SPEAKER: Yesterday I said again and again that you can convince me this way or that way.

SHRI GUMAN MAL LODHA: I am happy. But the whole problem is on account of our plus sixteen. So, I would submit, Sir, that if Your Honour thinks proper and if the consensus of the House is there that there are 16 Members sitting separately under Rule 4 expressly mentioning that it is the arrangement under Rule 4 of the Rules and not under the law of disqualification or anti-defection under Tenth Schedule, that would solve the problem.

Well, I would not say anything more. Sir, Thank you very much.

13.48 hrs.

**OBSERVATION BY SPEAKER**

[English]

MR. SPEAKER: I think I should now conclude.

The Interim order shall form part of the record of the House because so much has been discussed, it should be part of the record. I shall hear all the leaders of all the parties. They should do me the favour of attending the hearing and putting forth their points of view at the time of hearing.

All the points made in the House shall be considered as the points in argument made in this case. Other points also can be made at the time of the argument.

The decision shall be given without delay, also not in a hurry because the decision delayed is decision denied as well as the decision hurried is decision buried. What has come out of this argument is that the anti-defection law needs to be amended. It would be in the interest of each one of us that the Anti-Defection Law is amended expeditiously. I would thank the Members for expressing their views on these points. The process has been little unusual, the process has been little agonising and yet, all the Members have maintained certain kind of level and they have tried to put forth the points as they have understood. I thank all of them and I think we will hold the hearing as expeditiously as possible.

SHRI RAM VILAS PASWAN (Rosera): Till the final order is given, what will be the fate of this interim order? Why do you not keep it in abeyance?

MR. SPEAKER: This is again pressurising me to give an order.

SHRI RAM VILAS PASWAN: You have heard all of us now.

MR. SPEAKER: I have heard all these things and yet I think I have to hear more.

13.49 hrs.

**MESSAGES FROM RAJYA SABHA**

[English]

SECRETARY-GENERAL: Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:-

- (i) "In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Appropriation (Railways) No. 3 Bill, 1992 which was passed by the Lok Sabha at its sitting held on the 10th August, 1992 and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill."
- (ii) "In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Appropriation (Railways) No. 4 Bill, 1992 which was passed by the Lok Sabha at its sitting held on the 10th August, 1992 and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill."

- (iii) "In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to return herewith the Foreign Exchange Conservation (Travel) Tax Abolition Bill, 1992 which was passed by the Lok Sabha at its sitting held on the 11th August, 1992 and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill."

- (iv) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 17th August, 1992 agreed without any amendment to the Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 which was passed by the Lok Sabha at its sitting held on the 12th August, 1992."

13.50 hrs.

## PARLIAMENTARY COMMITTEES

### Summary of Work

[English]

SECRETARY-GENERAL: Sir, I beg to lay on the Table a copy of the 'Parliamentary Committee (Other than Financial Committees) - Summary of Work' (Hindi and English versions) pertaining to the period 20 June, 1991 to 31 May, 1992

MR. SPEAKER: Now, the House stands adjourned to meet again at 2.50 p.m.

13.51 hrs.

*The Lok Sabha then adjourned for Lunch till fifty minutes past Fourteen of the Clock.*

14.52 hrs.

*The Lok Sabha reassembled after Lunch at fifty two minutes past fourteen of the clock*

[SHRI SHARAD DIGHE *in the Chair*]

RE: SPLIT IN THE JANATA PARTY AND INTERIM ORDER OF THE SPEAKER IN REGARD THERETO - *CONTD.*

[*Transation*]

SHRI RAM VILAS PASWAN (Roser): Mr. Chairman Sir, at the time of the discussion we have raised the question and we could not come to know as to what ruling was given by the hon. Speaker at the end. We have been demanding that the interim orders should be withdrawn and the final order should be given immediately. If possible it should be given before 20th. We could not come to know about the last order. We want to urge through you that the last order, which has been passed, is not in the public interest and in favour of the party. It will encourage such things. Therefore, we want to submit to you that the orders, given should be withdrawn and the final orders should be given to bring an end to defections and to take severe action against it. We demand that a ruling should be given by you in this respect.

[English]

SHRI INDRAJIT GUPTA (Midnapore): It should be made quite clear that we are not asking for the withdrawal of the interim

order. But when the Speaker himself has made many observations thing morning which make it clear that he himself is not clear on many points. He says they are all open to further discussion. He is willing to hear arguments and he may change some of his earlier thinking and all that.

**SHRI SOMNATH CHATTERJEE (Bolpur):** He says, it is an order and not a decision.

**SHRI INDRAJIT GUPTA:** In view of that, we are pressing that at least that interim order should be kept in abeyance pending the final order—not that it should be withdrawn.

I hope the Chair will acceded to this very reasonable demand.

**SHRI SOMNATH CHATTERJEE :** As the hon Speaker has said he has given an order and he has not decided anything. It is an order without any decision. Therefore, this was just probable that he made some sort of interim working arrangement. But it is now found out that the working arrangement has completely upset everybody here. I am sure many of my friends cannot admit it inside the House. but they know that something which has been done is not right. Therefore, I am requesting that a date be fixed when the final order will be given. He said neither quickly nor it will be delayed, neither hurry nor haste. Therefore, what is in between? What is the twilight zone between haste and hurry, we would like to know so that we can know how long this will remain. Kindly enlighten us. Otherwise, it is difficult to function. Every leader is under its shade now. I do not know what is my jurisdiction.

**MR. CHAIRMAN:** I think whatever the Speaker has said before we rose is a matter of record. I cannot explain whatever he said and I cannot interpret also. So, the record will make it clear as to what the Hon. Speaker

has said before we rose as far as this subject is concerned. But as far as I have understood him, he said that he did not agree for keeping the order in abeyance. That is the final thing.

[Translation]

**SHRI RAM VILAS PASWAN (Roserā):** We do not want to be party to (*Interruptions*)

[English]

**SHRI SOMNATH CHATTERJEE :** You are not very sure either.

**MR. CHAIRMAN:** Therefore, what I say it is a matter of record. I cannot interpret it now nor have I the authority to give you any assurance on behalf of the Hon. Speaker.

**SHRI SOMNATH CHATTERJEE:** I would like to know whether you have been informed by the Hon. Speaker as to when will the order be made.

**MR. CHAIRMAN:** No.

**SHRI SOMNATH CHATTERJEE:** What can be done here?

**MR. CHAIRMAN :** I go ahead now with the Agenda.

**SEVERAL HON. MEMBERS:** No.

**THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT):** (SHRI RANGARAJAN KUMARAMANGALAM): May I make one request? (*Interruptions*)

**MR. CHAIRMAN:** One minute please.

Parliamentary Affairs Minister wants to speak.

\*(*Interruptions*)

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Chairman, Sir, \*(*Interruption*)

MR. CHAIRMAN: Kindly sit down. I have allowed Shri Syed Shahabuddin to speak.

\*(*Interruptions*)

MR. CHAIRMAN : It will not go on record.

SHRI SYED SHAHABUDDIN: Mr. Chairman, Sir, to sum up the proceedings in the morning, all I could gather way that the Hon. Speaker promised us a very expeditious decision on the questions that have been raised. But as far as I recall, we were waiting to hear from him a word about the fate of the interim order, he did not say a word about it.

Therefore, I would beg to make one humble submission to you. I have gone through the records. I find there was no request for an interim order at all in the original application of the 7th August. It was an after-thought on the 11th that the person concerned asked for an interim order and the Speaker, in his judgment, immediately granted it on the 12th. Now you are a great jurist. I beg to submit to you that even the issue of an interim order cannot be arbitrary. It can only be subject to certain known processes conventions and procedure and, you know, an interim order is only given on the basis of a balance of advantage. Heavens were not going to fall and the Members were not going to fight amongst each other if there was no separate seating arrangement.

Therefore, I find that the order merely states as the reason the purpose of functioning in the House. The order has been very

\* Not recorded.

well analysed by my colleagues here. The Members function as members of political parties.

Therefore, since the split question has not been decided, there is no question of separately seating them. Therefore, there was no need for an interim order. There was no urgency for an interim order. That is why, we demand that the interim order must either be withdrawn or kept in abeyance. ... (*Interruptions*)...

[*English*]

14.59 hrs.

Shri Ram Vilas Paswan and some other hon. Members then left the House.

[*Translation*]

SHRI RAM VILAS PASWAN (Rosera): If you have no authority to take a decision on it, we walk one in protest.

SHRI BASUDEB ACHARIA (Bankura): It should be kept in abeyance.

MR. CHAIRMAN : I have no authority to do so.

(*Interruptions*)

AN HON. MEMBER: Why do you not hear us? (*Interruptions*)

SHRI SOMNATH CHATTERJEE (Bolpur): This is a very sad day. In protest, we walk out.

15.00 hrs.

Shri Somnath Chatterjee and some other hon. Members then left the House. (*Interruptions*)

**MR. CHAIRMAN:** Now, we go on with the Agenda. Papers to be laid.

15.01hrs.

**PAPERS LAID ON THE TABLE**

**Memoranda outlining the detailed action taken on the recommendations contained in the Seventh and Eighth Annual Reports of the Commission for Scheduled Castes and Scheduled Tribes for 1984-85 and 1985-86**

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM) (On behalf of Shri Sitaram Kesri): Sir, I beg to lay on the Table

- (1) A copy of the Memorandum (Hindi and English versions) outlining the detailed Action Taken on the Recommendations contained in the Seventh Annual Report of the Commission for Scheduled Castes and Scheduled Tribes for the year 1984-85.

[Placed in Library. See No. LT - 2516/92]

- (2) A copy of the Memorandum (Hindi and English versions) outlining the detailed Action Taken on the Recommendations contained in the Eighth Annual Report of the Commission for Scheduled Castes and Scheduled Tribes for the year 1985-86.

[Placed in Library. See No. LT-25/792]

**Forest (Conservation) Amendment Rules, 1992**

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM) (on Behalf of Shri Kamaal Nath): Sir, I beg to lay on the Table a copy of the Forest (Conservation) Amendment Rules, 1992 (Hindi and English versions) published in Notification No. G.S.R. 563 (E) in Gazette of India dated the 28th May, 1992 under sub-section (2) of section 4 of the Forest (Conservation) Act, 1980.

[Placed in Library. See No. LT - 25/8/92]

**Profit and Loss Account and Balance Sheet of the Department of Telecommunications for 1990-91**

THE DEPUTY MINISTER IN THE MINISTRY OF COMMUNICATIONS (SHRI PV. RANGAYYA NAIDU (ON BEHALF OF SHIR RAJESH PILOT): Sir, I beg to lay on the Table a copy of the Profit and Loss Account and Balances Sheet (on accrual basis) of the Department of Telecommunications for the year 1990-91 (Hindi and English versions)

[Placed in Library. See No. LT-2552/92]

**Copy of the Eighth Five Year Plan**

THE MINISTER OF STATE OF THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION AND MINISTER OF STATE IN THE MINISTRY OF NON-CONVENTIONAL ENERGY SOURCES (SHRI SUKH RAM): Sir, I beg to lay on the Table a copy of the Eighth Five\*

\*English version of the Plan was laid on the Table on the 5th. August 1992.

Year Plan 1992-97 (Volume I and II) (Hindi version only).

[Placed in Library See. No. LT - 2553/92]

**Notifications under Essential Commodities Act, 1955**

THE MINISTER OF STATE IN THE MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (SHRI KAMALUDDIN AHMED): Sir, I beg to lay on the Table a copy each of the following Notifications (Hindi and English versions) under sub-section (6) of section 3 of the Essential Commodities Act, 1955:-

- (1) The Sugar (Price Determination of 1991-92 Production) Second Amendment Order, 1992 published in Notification No. G.S.R. 671 (E) in Gazette of India dated the 7th July, 1992.
- (2) The Sugar (Price Determination for 1991-92 Production) Third Amendment Order, 1992 published in Notification No. G.S.R. 692 (E) in Gazette of India dated the 28th July, 1992

[Placed in Library. See No. LT - 2554/92]

**Delhi (Milk and Milk Product) Control Amendment Order, 1992 etc.**

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (SHRI K.C. LENKA): Sir, I beg to lay on the Table:-

- (1) A copy of the Delhi (Milk and Milk Product) Control Amendment Order, 1992 (Hindi and English versions) published in Notification No.

S.O. 605 (E) in Gazette of India dated the 6th August, 1992 under sub-section (6) of section 3 of the Essential Commodities Act, 1955.

[Placed in Library. See No. LT 2555/92]

- (2) A copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956.

- (i) Review by the Government on the working of the Goa Meat Complex Limited, Goa, for the year 1990-91

- (ii) Annual Report of the Goa Meat Complex Limited, Goa, for the year 1990-91 along with Audited Account and comments of the Comptroller and Auditor General thereon.

- (3) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-2556/92]

**Annual Report and Review on the Working of Bihar State Agro-Industries Development Corporation Ltd. Patna for the Year, 1982-83.**

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (SHRI MULLAPALLY RAMACHANDRAN): Sir, I beg to lay on the Table:-

- (1) A copy each of the following papers (Hindi and English versions) under section 619A of the Companies Act, 1956:-



(i) Review by the Government on the working of the Bihar State Agro-Industries Development Corporation Limited, Patna, for the year 1982-83.

(ii) Annual Report of the Bihar State Agro-Industries Development Corporation Limited, Patna, for the year 1982-83 along with Audited Accounts and comments of the Comptroller and Auditor General thereon.

(2) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-2557/92]

**Reports on the Working and Activities of Bank of Baroda, Bank of India, Bank of Maharashtra etc. for 1991-92**

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM) (*On behalf of Shri Dalbir Sinigh*): Sir, I beg to lay on the Table:-

(1) A copy each of the following Annual Reports (Hindi and English versions) under sub-section (8) of section 10 of the Banking Companies (Acquisition and Transfer of Undertakings Act, 1970:-

(i) Report on the working and activities of the Bank of Boroda for the year 1991-

92 along with Accounts and Auditors' Report thereon.

[Placed in Library. See No. LT-2519/92]

(ii) Report on the working and activities of the Bank of India for the year 1991-92 along with Accounts and Auditors' Report thereon.

[Placed in Library. See No. LT-2520/92]

(iii) Report on the working and activities of the Bank of Maharashtra for the year 1991-92 along with Accounts and Auditors' Report thereon.

[Placed in Library. See No. LT-2521/92].

(iv) Report on the working and activities of the Canara Bank for the year 1991-92 along with Accounts and Auditors' Report thereon.

[Placed in Library. See No. LT-2522/92]

(v) Report on the working and activities of the Central Bank of India for the year 1991-92 along with Accounts and Auditors' Report thereon.

[Placed in Library. See No. LT-2523/92]

(vi) Report on the working and activities of the Indian Bank for the year 1991-92 along

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|        | with Accounts and Auditors' Report thereon.   |     | with Accounts and Auditors' Report thereon.   |
|        | [Placed in Library. See No. LT- 2524/92]  |     | [Placed in Library. See No. LT- 2529/92]  |
| (vii)  | Report on the working and activities of the Syndicate Bank for the year 1991-92 along with Accounts and Auditors' Report thereon.       | (2) | A copy of the Annual Report (Hindi and English versions) on the working and activities of the Andhra Bank for the year 1991-92 along with Accounts and Auditors' Report thereon under sub-section (8) of section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.  |
|        | [Placed in Library. See No. LT-2525/92]   |     | [Placed in Library. See No. LT-2530/92]   |
| (viii) | Report on the working and activities of the Union Bank of India for the year 1991-92 along with Accounts and Auditors' Report thereon.  | (3) | A copy each of the Annual Reports (Hindi and English versions) of the State Bank of India and its subsidiary Banks viz State Bank of Bikaner and Jaipur, State Bank of Hyderabad, State Bank of Indore, State Bank of Mysore, State Bank of Patiala and State Bank of Travancore for the year 1991-92 along with Accounts and Auditor's Report thereon, under sub-section (4) of section 40 of the State Bank of India Act, 1955 and sub-section (3) of section 43 of the State Bank of India (Subsidiary Banks) Act, 1959. |
|        | [Placed in Library. See No. LT-2526/92]   |     | [Placed in Library. See No. LT-2531/92 to 2531-F/92]  |
| (ix)   | Report on the working and activities of the United Bank of India for the year 1991-92 along with Accounts and Auditors' Report thereon. | (4) | A copy each of the following Reports (Hindi and English versions):-   |
|        | [Placed in Library. See No. LT- 2527/92]  | (i) | Report of the Gorakhpur Kshetriya Gramin Bank, Gorakhpur for the year 1991-92 together with Accounts and Auditor's Report thereon.  |
| (x)    | Report on the working and activities of the UCO Bank for the year 1991-92 along with Accounts and Auditors' Report thereon.             |     |   |
|        | [Placed in Library. See No. LT-2528/92]   |     |   |
| (xi)   | Report on the working and activities of the Dena Bank for the year 1991-92 along  |     |   |

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|       | [Placed in Library. See No. LT-2532/92]  |        | [Placed in Library. See No. LT-2537/92]  |
| (ii)  | Report of the Begusarai Kshetriya Gramin Bank, Begusarai for the year 1991-92 together with Accounts and Auditor's Report thereon. | (vii)  | Report of the Sahyadri Gramin Bank, Shimoga for the year 1991-92 together with Accounts and Auditors' Report thereon.                  |
|       | [Placed in Library. See No. LT-2533/92]  |        | [Placed in Library. See No. LT-2538/92]  |
| (iii) | Report of the Sri Visakha Grameena Bank, Sri-kakulam for the year 1991-92 together with Accounts and Auditor's Report thereon.     | (viii) | Report of the Godavari Grameena Bank, Rajahmundry for the year 1991-92 together with Accounts and Auditor's Report thereon.            |
|       | [Placed in Library. See No. LT-2534/92]  |        | [Placed in Library. See No. LT-2539/92]  |
| (iv)  | Report of the Prathama Bank, Moradabad for the year 1991-92 together with Accounts and Auditor's Report thereon.                   | (ix)   | Report of the Aravali Kshetriya Gramin Bank, Sawai Madhopur for the year 1991-92 together with Accounts and Auditor's Report thereon.  |
|       | [Placed in Library. See No. LT-2535/92]  |        | [Placed in Library. See No. LT-2540/92]  |
| (v)   | Report of the Mithila Kshetriya Gramin Bank, Laherisarai for the year 1991-92 together with Accounts and Auditor's Report thereon. | (x)    | Report of the Chaitanya Grameena Bank, Tenali for the year 1991-92 together with Accounts and Auditors Report thereon.                 |
|       | [Placed in Library. See No. LT-2536/92]  |        | [Placed in Library. See No. LT-2541/92]  |
| (vi)  | Report of the Banaskantha Mehsana Gramin Bank, Patan, for the year 1991-92 together with Accounts and Auditor's Report thereon.    | (xi)   | Report of the Chandrapur Gadchiroli Gramin Bank, Chandrapur for the year 1991-92 together with Accounts, and Auditor's Report thereon. |

- [Placed in Library. See No. LT-2542/92]
- (xii) Report of the Damoh Panna Sagar Kshetriya Gramin Bank, Damoh for the year 1991-92 together with Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2543/92]
- (xiii) Report of the Bundi Chit-torgarh Kshetriya Gramin Bank, Bundi for the year 1991-92 together with Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2544/92]
- (xiv) Report of the Junagadh Amreli Gramin Bank, Junagadh for the year 1991-92 together with Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2545/92]
- (xv) Report of the Bhagirath Gramin Bank, Sitapur for the year 1991-92 together with Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2546/92]
- (xvi) Report of the Vidur Gramin Bank, Bijnor for the year 1991-92 together with
- Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2547/92]
- (xvii) Report of the Manjira Gra-meena Bank, Sangareddy for the year 1991-92 together with Accounts and Auditor's Report thereon.
- [Placed in Library. See No. LT-2548/92]
- (5) A copy of the Bank of Maharashtra Officer Employees' (Conduct) (Amendment) Regulations, 1988 (Hindi and English versions) published in Notification No. AX-1/ST/5672/88 in Gazette of India dated the 23rd May, 1992 under subsection (4) of section 19 the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.
- [Placed in Library. See No. LT-2549/92]
- Memorandum of understanding between the Minerals and Metals Trading Corporation of India Ltd. and Ministry of Commerce for 1992-93**
- THE DEPUTY MINISTER IN THE MINISTRY OF COMMERCE (SHRI SAL-MAN KHURSHEED): Sir, I beg to lay on the Table a copy of the Memorandum of Understanding (Hindi and English versions) between the Minerals and Metals Trading Corporation of India Limited and the Ministry of Commerce for the year 192-93.
- [Placed in Library. See No. LT-2558/92]

**Memorandum of Understanding between the Videsh Sanchar Nigam Ltd. and the Deptt. of Telecommunications, Ministry of Communications for the year 1992-93**

THE DEPUTY MINISTER IN THE MINISTRY OF COMMUNICATIONS (SHRI P.V. RANGAYYA NAIDU) Sir, I beg to lay on the Table a copy of the Memorandum of Understanding (Hind and English versions) between the Videsh Sanchar Nigam Limited and the Department of Telecommunications, Ministry of Communications for the year 1992-93.

[Placed in Library. See No. LT-2550/92]

15.02 hrs.

**COMMITTEE ON GOVERNMENT ASSURANCES**

**Seventh Report**

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, I beg to present the Seventh Report (Hindi and English versions) of the committee on Government Assurances.

15.03hrs

**PETITION RE. EARLY MODERNISATION OF THE INDIAN IRON AND STEEL COMPANY OF BURNPUR**

[English]

SHRI BASUDEB ACHARIA (Bankura): Sir, I beg to present a petition signed by Shri

J.N. Kar Chowdhury and other workmen etc., Indian Iron & Steel Company, Burnpur, West Bengal, for early modernisation of the Indian Iron and Steel Company of Burnpur.

[Translation]

SHRI MADAN LAL KHURANA (South Delhi): Mr. Chairman, Sir, through you, I would like to draw the attention of the Government towards Kashmir situation. Pakistani flag was hoisted in Kashmir on 14th August. Three days earlier to that the Government was saying that the situation is normal and it was considering to hold elections there. A function was organised on the 15 August. As per my information senior officials participated in the function. They were attacked by the terrorists. When Mr. Farooq Abdullah says that Kashmiris will also be made a party alongwith India and Pakistan at the time of taking decision on Kashmir, it becomes a matter of serious concern for us. It is very wrong and a step to disintegrate the country. The way Mr. Jinnah had divided the nation on the basis of Hindu-Muslim theory, Mr. Farooq Abdullah, whom the Government is considering to appoint as the Chief Minister, wants to divide the country by adopting three-nation theory. Even after 45 years of independence Pakistani flag is being hoisted and Indian Flag is being insulted in the valley. It cannot be tolerated. Sir, I have the press clippings in which photos of terrorists wearing masks have appeared in newspapers. The report has come in 'Punjab Kesari with the terrorists taking out a procession with arms in their hands. But the Government objects to the 'Ekta Yatra' of Dr. Muri Manohar Joshi. I request that the Government should make a statement in this regard. The Minister of Home Affairs is present here. It is a matter of great concern for the entire nation. The Government should make a statement regarding the incidents which took place in Jammu, Doda and other areas in last 3-4 days. This is what I want to say through you. (*Interruptions*)

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, on the 15th instant, there was continuous firing for 11 hours in Kishtwar, Doda, Bhaderwah. I was there those days.... (*Interruptions*) The Armymen had no orders. The terrorists did whatever they liked for 11 hours without any check. Pamphlets with terrorist literature supporting Pakistan were distributed openly. They said that no one can do anything to them and they would do whatever they liked. The Government is requested to make a statement in this regard. When we crossed Bhaderwah and covered some distance from Doda, shots were fired at our car. I would like that the Government should make a statement on the incidents that took place at Doda and Bhaderwah on the 14th, 15th and 16th instants. What action has been taken by the Government so far. Many Army jawans were injured. (*Interruptions*)

[*English*]

SHRI CHETAN P.S. CHAUHAN (Amroha): The Home Minister is here. Let him make a statement on this. It is a very serious matter. (*Interruptions*)

[*Translation*]

SHRI LAL K. ADVANI (Gandhi Nagar): Mr. Chairman, Sir, in fact, the situation in Kashmir is very serious. Last time we did a good thing by cancelling the talks which were to be held at foreign secretaries' level. This time, we have got it done with much pursuance. I don't know whether the Government would tell us or not the outcome of the meeting before the end of the session. The most complicated problem in Indo-Pak relations is the way Pakistan is supplying arms and sending infiltrators to India. It is creating a situation which has correctly been explained by Shri Khurana and Shri Pandeya just now.

Three of our Parliamentary Delegations have gone there. A team left for the valley just now. One team went to Laddakh, the second one across Bhaderwah and the third one to Poonch and Rajauri. Their reports will come to me. I would request the Minister of Home Affairs to inform the House. His statements don't reflect the seriousness of the situation prevailing there and it has been said constantly that they were going to hold elections there.

I would like that the House should be apprised of the outcome of talks held at foreign Secretary's level. Besides the Government should let the House know the overall situation prevailing in the valley and the action it is going to take in this regard.

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M. M. JACOB): Sir, hon. Members were asking me to react on this and the Leader of the Opposition was correct when he wanted some information about what is happening now. Regarding the aspect of the Secretary level talks, I shall certainly convey the feelings expressed by you to the External Affairs Minister and see whether it is possible to come back. I do not know at what stage they have reached now.

Regarding the first point which Khurana was mentioning and some others expressed, I say that it is a fact and all of us are equally concerned about the developments in Jammu and Kashmir, in Srinagar area including some reports of some flag hoisting in some portions. We are getting the authentic information about what has happened actually in those places and other places. If there is any material evidence of what he was stating now, certainly, I can come back to the House before the session ends and

make a statement on that. But nobody has said so far that the Kashmir situation is all peaceful and all that. We are aiming at holding elections by normalising the situation in Jammu and Kashmir. So the normalisation process will take place by different methods, by dialogue, by consultations, by taking action, by using force wherever it is necessary and containing the infiltration. (Interruptions)

[Translation]

SHRI MADAN LAL KHURANA: Please send 5 members of the Congress Party to Lal Chowk. If they return safe after delivering a speech from there, you can hold elections in the State. When even five members of your party cannot go there and deliver a speech, how are you talking in terms of holding elections. (Interruptions)

[English]

SHRI M.M. JACOB: We shall try to get the information as far as possible. If there is any worthwhile information, I shall come back to the House. (Interruptions)

MR. CHAIRMAN: Now we shall take up Item Number 16 regarding the Statement by the Minister.

#### STATEMENT BY MINISTER

#### Incident of Killings of Policemen's Families in Punjab

15.10 hrs.

[English]

THE MINISTER OF STATE IN THE  
MINISTRY OF PARLIAMENTARY AFFAIRS

AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M. M. JACOB): Sir, I rise to inform the House of the tragic happenings in Punjab wherein several members of the families of policemen have been killed in the past few days.

During the current year the security forces in Punjab have achieved considerable success in not only bringing down the killings of the civilians but also neutralising many of the terrorist gangs. As against 1634 civilians killed during the corresponding period of 1991, killings in the current year have been 1187. Significant successes have been achieved during the last three months in anti-terrorist operations, which resulted in security forces killings as many as 75 hardcore terrorists. These included 3 heads of major terrorist organisations operating in Punjab, namely Shri Rachpal Singh Chandran of BTFK, Shri Gurjant Singh Budhsingh-wala of KLF and Shri Sukhdev Singh Babbar of the Babbar Khalsa International. In addition to the leaders and the hard core terrorists mentioned above, 1135 other terrorists have been killed. Over and above these, 324 terrorists including 4 hard core have also surrendered. The above successes of the security forces have gone a long way in instilling a sense of security in the minds of the people and enabling them to meet the challenge with confidence and vigour. There has been a steady increase in the police getting actionable intelligence input during these days.

With the killings of some of the top terrorists and faced with depletion of their ranks, the Pakistan backed terrorist outfits have become panicky and in a desperate effort to shore up their morale have, during the last few days, struck against certain soft targets, particularly the families of Punjab policemen. They killed 12 persons including 2 Punjab Home Guards on 9.8.92, 29 persons including 2 SPOs and 2 police personnel on 10.8.92, 6 on 11.8.92, 2 on 13.8.92

[Sh. M.M. Jacob]

and 7 including one SPO on 16.8.92. Thus, a total of 56 persons were killed out of which 49 were relatives and 7 were policemen.

The security forces have taken note of the challenge and have initiated various operational steps so as to combat terrorists threat and ensure protection to the families of the policemen. All the possible steps are being taken to achieve the twin objectives of mounting greater pressure on the remaining terrorist gangs while, at the same time, giving adequate protection to the policemen and their families. An alert has been sounded throughout the State.

The Government of Punjab has granted Rs. 1 lakh as ex-gratia to the next of kin of each deceased. Of this Rs. 50,000/- would be in cash and the balance in the form of deposits. The Director General of Police, Punjab, has visited and consoled the affected families. All efforts have been made to ensure that the morale of the force is not affected by such happenings.

I am sure, the House will join me in condemning these dastardly acts and expressing sympathies for the families of the deceased.

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15.14 hrs.

PUBLIC ACCOUNTS COMMITTEE

**Thirty-First and Thirty-Second Reports**

[English]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Sir, I beg to present the following Reports (Hindi and English versions) of the Public Accounts Committee:

- (1) Thirty-first Report on Slum Clearance and Improvement of Slums and Economically Weaker Sections Housing Programme.
- (2) Thirty-second Report on Assessment of Small Scale Industrial Undertakings.

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15.14 1/2 hrs.

ANNOUNCEMENT RE: ARREST OF SARVASHRI SURAJBHANU SOLANKI AND DIGVIJAYA SINGH, MPS.

[English]

MR. CHAIRMAN: I have to inform the House that the following teleprinter message dated 17th August, 1992, was received from the Superintendent of Police, Dhar, Madhya Pradesh:-

"Sarvashri Surajbhanu Solanki and Digvijaya Singh, Members of Parliament, have been arrested on 17th August, 1992 at Dhamnod, District, Dhar, Madhya Pradesh, under section 151 Cr. P.C. for organising dhakka jam on Agra-Bombay National Highways along with other 306 persons. They are kept at Special Jail, Dharampuri, Dhar."

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15.15 hrs.

BUSINESS ADVISORY COMMITTEE

**Twentieth Report**

[English]

THE MINISTER OF STATE IN THE  
MINISTRY OF PARLIAMENTARY AFFAIRS



AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM): Sir, I beg to move:

"That this House do agree with the Twentieth Report of the Business Advisory Committee presented to the House on the 12th August, 1992.

MR. CHAIRMAN: The question is:

"That this House do agree with the Twentieth Report of the Business Advisory Committee presented to the House on the 12th August, 1992."

*The motion was adopted*

15.15 hrs

NATIONAL ENVIRONMENT TRIBUNAL  
BILL \*

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM): Sir, on behalf of Shri Kamal Nath, I beg to move for leave to introduce a Bill to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and

compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto."

*The motion was adopted.*

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SHRI RANGARAJAN KUMARAMANGALAM: Sir, I introduce the Bill.

MR. CHAIRMAN: The House shall now take up Matters under Rule 377. Shri Sriballav Panigrahi.

SHRI SRIBALLAV PANIGARHI (Deogarh): Before that I would seek your permission to raise a matter of utmost public importance. I had given notice. But, because of the other type of discussion that went on for long, I could not raise the matter.

MR. CHAIRMAN: We are on Matters under Rule 377.

SHRI SRIBALLAV PANIGARHI: In the world famous Jagannath Temple at Puri a huge stone block fell from the roof top.

\*Published in the Gazette of India, Extraordinary Part II, Section 2, dated 18.8.92

\*\*Introduced with the recommendation of the President.

MR. CHAIRMAN: I do not allow. We are on Matters Under Rule 377... (Interruptions) ... That is not the procedure. Please do not record.

(Interruptions)\*

#### MATTERS UNDER RULE 377

[English]

**(i) Need to Clear the Proposal of Orissa Government for setting up District Centres for English Languages Teaching at Sambalpur and Baripada.**

SHRI SRIBALLAV PANIGRAHI (Deogarh): I want to raise the following matter under Matters under Rule 377.

The Orissa Government have decided to open two New District Centres in English language teaching - one at Sambalpur and the other at Baripada for the current academic session and have agreed to bear state share of these two new district centres. This matter is pending with the Ministry of Human Resources Development for the last two years. The proposals should be cleared immediately and necessary action taken, so that the Centres start functioning forth with.

**(ii) Need to take adequate anti-air Pollution measures at Rourkela Steel Plant and Fertilizer plant, Orissa.**

KUMARI FRIDA TOPNO (Sundargarh): Air pollution has posed a serious problem in and around Rourkela city. The iron dust discharged through the chimney of the steel plant along with the polluted smoke are being spread over the entire area. The iron dust fall in the eyes of the people, particularly the two wheeler drivers face this problem. They feel pain in their eyes and some ailments develop in their eyes after a few days.

In many cases, the eyes are damaged if the iron dust are not taken out immediately.

According to an estimate, about 2000 people take admission in the Rourkela Government Hospital and an equal number of them in the Ispat General Hospital every year complaining some kind of eye ailment or the other due to the falling of iron dust in their eyes.

Both the Rourkela Steel Plant and the Fertilizer Plant set up by Fertilizer Corporation of India are equally responsible for the growing air pollution in and around Rourkela city. The polluted air mixed with iron dust discharged from Rourkela Steel Plant is causing a number of diseases like Asthma, Tuberculosis, Cancer and several other eye ailments. In order to put an end to the occurrence of these diseases, I urge the Minister of Environment and Forest to prevail upon the Ministry of Steel and Fertilizers to take adequate modern anti-air pollution measures at the Steel Plant and Fertilizer Plant at Rourkela forthwith.

**(iii) Need to Look into the Deaths due to Malaria In Mizoram.**

DR. C SILVERA (Mizoram): The mosquito menace in Mizoram is sharply on the increase during the last one year or so. This is mainly due to the non-availability of insecticides in time. No spraying of DDT was done during the year 1991 due to want of the insecticide. It is presumed that it is because of this that mosquito menace and malaria death is sharply on the increase. The following statistics will prove the facts, Malaria death in 1988 - 16; 1989 - 17; 1990 - 8; 1991 - 12 and 1992 (till July) - 23.

Since NMEP is a State/Central Programme, it is experienced that the Central contributions both in kind (commodities) and in cash are generally received late putting

\* Not recorded.

the eradication programme, which is seasonal into difficulty. I therefore urge upon the Government to consider this increase in mosquito and malaria deaths in Mizoram and send all the Central contributions towards this NMEP Programme to Mizoram Government immediately so as to avoid further increase of Malaria deaths.

**(iv) Need for a Review of Family Planning Programme in Bastar District, Madhya Pradesh**

[*Translation*]

SHRI MANKU RAM SODI (Bastar): Sir, in the last 10 years, thousands of people have died of gastroenteritis, cholera, malaria, meningitis etc. in the tribal district of Bastar in Madhya Pradesh and many are still dying every year. Among them the number of children is the largest i.e. almost 60 per cent or even more. On the other hand the family planning programme is being zealously and meticulously implemented by the Government of Madhya Pradesh. As a result the birth rate among adivasis is constantly decreasing in Bastar. The proof of this fact is that the target of family planning programmes is always achieved in Bastar and for this the department has also bagged many prizes. Consequently, in other tribal areas also there is fall in the birth rate. There has been no increase in population at all in Abujhmar for the last 15 years. The Government of Madhya Pradesh has never conducted a survey to know as to what is the birth and death rate of the tribals. Going ahead with the family planning programme without trying to know the ratio of birth and death amounts to the extinction of the tribals.

I would therefore like to submit that among with taking care of health of the tribals of Bastar as well as of other tribal districts a survey should be conducted immediately to know the ratio of the birth rate and death rate of the tribals. Any target for the family planning programme in those

districts should be fixed only after that survey is conducted, otherwise the family planning programme should not be implemented there.

**(v) Need to connect Kota, Rajasthan by Air**

[*Translation*]

SHRI DAU DAYAL JOSHI (Kota): Sir, the city of Kota is the industrial capital of Rajasthan. It is unfortunate that in spite of all the efforts Kota is not being linked by air and instead the Yaudoot services which was already in operation has been suspended.

It is therefore requested that keeping in view the importance of the city of Kota it should immediately be linked by air.

**(vi) Need for early completion of Electrification of Railway Track from Hathras Fort to Hathras Junction U.P.**

[*Translation*]

DR. LAL BAHADUR RAWAL (Hathras): Sir, the Government had given an assurance in 1991-92 for the electrification of the railway track from the fort of Hathras to Hathras junction in the district of Hathras for the introduction of electric trains. Accordingly a survey was conducted and the work was started but the progress of work was so slow that it could not be completed within the stipulated period and now the work has been completely suspended as a result of which the target has not been achieved by the Government. The people of this area are facing lot of problem in the absence of proper railway facilities.

I would, therefore, submit to the hon. Minister of Railways that efforts should be made to complete the work of railway track between the fort of Hathras and Hathras junction soon.

**(vii) Need to ensure that Hindi is given due recognition**

[*Translation*]

SHRI RAM PUJAN PATEL (Phulpur): Mr. Chairman, Sir, with your permission, I would like to draw the attention of the House to a matter of urgent public importance under rule 377.

According to the Article 343 of the Constitution, the official language of the union is Hindi and the script is Devnagri. It is accepted by the whole nation. The identity of a free nation is its language, literature and culture. A country devoid of its own language, literature and culture will remain in the chains of slavery for centuries. Our country is now free but our heart and mind is still not free from the shadow of slavery. The need of the hour is to unify the country in a bond and thereby make it strong and prosperous. Great thinkers of the country have opined the Hindi is the only language which is capable of uniting the whole country. The famous writer of Orissa Shri Kalicharan Panigrahi went to the extent of saying that "I would love to speak incorrect Hindi rather than English because Hindi is my national languages". A craze for English language is still there in the country and it is far away from the language of masses.

The Government should ensure that all the examinations in different states are conducted in the regional languages of those respective States or in the official language—Hindi. During interviews the candidates should be given an option to reply in their mother tongue so that the talented but the neglected candidates of the poor class may also be placed on higher posts to give a new direction to the country. Senior leaders and

intellectuals of the non-Hindi States should be consulted by the Government to ensure the education of Hindi in their States so that no region of the country is left untouched.

I would like to submit to the Union Government that the link-language Hindi should in compliance with the provisions of the constitution be honoured by giving it a proper place to ensure national, social, cultural traditional and emotional unity of the country.

[*English*]

**(viii) Need to Improve the Tele-Communication services of Uttar Dinajpur District West Bengal**

SHRI SUBRATA MUKHERJEE (Raiganj): Sir, I draw the attention of the Government to continuous faulty service in both local and trunk circuit of the telecommunication Department for the last few months in the whole district of Uttar Dinajpur in West Bengal. Telecommunication services are out of order till-date. Attention of the Telecommunication Department was drawn several times but no remedy has yet been chalked out. CGM, West Bengal Telecommunication Department was also informed about this situation. But till now, nothing has been done. Failure to have telecommunication in trunk circuit causes much loss of revenue to the Government, as well as inconvenience to the suffering public.

So, I urge upon the Government to take immediate action in the matter so that telecommunication services of Uttar Dinajpur are restored immediately.

15.29 hrs.

INDO-TIBETAN BORDER POLICE  
FORCE BILL**As Passed by Rajya Sabha***[English]*

THE MINISTER OF STATE IN THE  
MINISTRY OF PARLIAMENTARY AFFAIRS  
AND MINISTER OF STATE IN THE MINIS-  
TRY OF HOME AFFAIRS (SHRI M. M.  
JACOB): Sir, I beg to move\*:

"That the Bill to provide for the constitution and regulation of an armed force of the Union for ensuring the security of the borders of India and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

As the House is aware, the Indo-Tibetan Border Police was raised in October 1962 in the wake of Chinese aggression on our northern borders. The Force was conceived as an integrated unconventional guerrilla-cum-intelligence-cum-fighting Force meant to operate primarily in the inhospitable, wild and vertical world of the Himalayas. Since its inception, it has been mainly deployed ahead of Army defences in the remote areas of northern borders at altitudes of 9,000 to 19,000 ft. above the sea level in the States of Jammu & Kashmir, Himachal Pradesh and Uttar Pradesh. It has been discharging its role, including border surveillance, effectively. Moreover, during the past three decades, it has also acquired rich experience in the fields of high risk VVIP security, bank security and in anti-terrorist operations in States like Punjab and Jammu and Kashmir. The specialisation acquired by ITBP has accorded it a recognisable identity of its own.

The ITBP, since its raising is being

governed by the provisions, of the CRPF Act, 1949 and the CRPF Rules, 1955 as amended from time to time. However, the role of ITBP is distinct from that of the CRPF, as it includes providing a sense of security to the population living on the borders, controlling trans-border traffic, ensuring effective border surveillance and functioning under the operational control of the Army as may be required in sensitive areas. This role demands legal provisions of a nature different from those required by the CRPF. Thus, a separate Act for ITBP is required which would also impact a sense of pride and recognition to the ITBP personnel.

Sir, if permitted, I would like to touch some of the salient points of the Bill. In view of the sensitive role assigned to this Force, it is imperative that the highest standard of discipline and efficiency is maintained amongst its members. This can only be done through a stringent Code governing the members of the Force. Accordingly, suitable penal and disciplinary provisions have been incorporated in the Bill. While formulating the Bill, provisions of the BSF Act, and in some respects of the Army Act, have been extensively drawn upon. However, wherever required, modifications have been made.

Sir, I would like to point out that the Bill mainly deals with the basic structures of the Force and it does not go into the administrative and procedural details which along with service conditions, etc., will form part of the Rules framed under Clause 156.

In the Armed Force, there is an in-built system of periodical Sainik Sabha and Request Room for ventilating grievances of members of the Force. The Bill also provides statutory right to petition against injustice or grievance. However, some restrictions have been imposed on the fundamental rights of members to ensure high standard of discipline among them. Similar pro-

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\*Moved with the recommendation of the President.

[Sh. M.M. Jacob]

visions exist in law governing BSF, NSG and Army.

As the Force has to ensure security and integrity of nation, for which members have to make supreme sacrifice, if necessary any action which compromises the security and integrity of the country has to be dealt with very severely. Thus, there is an essential requirement of having the provisions of severe punishments and giving powers to Force Courts to award such punishments.

With a view of provision to exercise check on such powers of the Force Court and to minimise chances of injustice or arbitrariness, if any, confirmation of punishments awarded by the Force Court by appropriate authority has been made necessary. In addition, the accused has been given statutory right to prefer a pre-confirmation and a post-confirmation petition to the prescribed authority against the award of punishment. Besides provisions for suo-motu review of proceedings by the superior authority has also been provided. These confirmation petitions are to be examined by Judge Attorney-General who is otherwise not associated with trial. Thus, Judicial review is available to the members of the Force in the matter of punishment through the in-built mechanism.

For effective and efficient utilisation of the Force, Central Government has been empowered to confer powers and duties to the officers of this Force under various Central Acts such as CrPC, Custom Act, etc., subject to certain conditions and limitations. Similar powers under State Acts can also be conferred on the Force personnel with the concurrence of State Governments. Such provisions also exist in Acts, of BSF, NSG, Coast Guard, etc.

Sir, the Bill was generally welcomed in the other House and, I hope, that it will also be welcomed by all Members in this House.

With these words, I commend the Bill to the House for its consideration and acceptance.

**MR. CHAIRMAN:** Motion moved:

"That the Bill to provide for the Constitution and regulation of an armed force of the Union for ensuring the security of the borders of India and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

**MAJ. GEN (RETD.) BHUWAN CHANDRA KHANDURI (Garhwal):** Sir, with this Indo Tibetan Border Force Bill, 1992, an Act is being introduced, which as the Minister himself has stated, is a stringent measure. The Act is applicable to a Force which is already in uniform and is already subject to some rules and regulations and certain conditions of service.

As the Statement of Objects and Reasons says, this Force was raised in October 1962 and is being regulated under certain specific rules pertaining to the CPF. The necessity, therefore, to introduce a Bill now, after 30 years of its existence, ought to have been clarified by the Minister. In his brief statement as also in the statement of objects and reasons, it is said that because of certain changed conditions and experience gained during the last three decades, it has been felt that the Force should be regulated by a separate self-contained statute. I would request the hon. Minister to make it clear as to what is the experience gained and what are those changes that have forced him to have a separate set of rules and regulations.

I will come to the details in this regard a little later, but it appears to me that these are virtually a copy of the Army Act. I would also like to know about the problems with regard to the existing rules and regulations - both common laws as well as specific laws - which are being applied to the ITBP.

Coming to the statement of objects and reason, I have some observations to make. The responsibilities that have been assigned to this Force are not very fair. In fact, there is a hotchpotch of a variety of duties. It is not all fair to any Force that you give them a variety of duties which are not matching with one another. Let me read out their duties. This Force has been charged with the responsibility of ensuring security on the Northern Borders and instilling a sense of security among the people living in the border areas and preventing trans-border crime. So far so good. But then, they also have to guard against smuggling, un-authorized entry into Indian territory in coordination with the other security forces. In addition, the Force has been assigned bank security duties and other related duties in terrorist affected areas. I suppose these are only a part of the duties of this Force! My observation is, on the one hand you charge a Force to be responsible for activities against the enemy; and on the other hand, you use them for activities against our own people, in the name of enforcing law and order. Over a period of time, you have done exactly the same thing with the Army as well. This type of a concept is not good. People who are on border should deal with border and those who are required for internal security duties with our own people, should be doing a strictly policing job. These two duties should not be mixed up in this manner.

The third observation that I want to make is this. While going through this Bill, it appears to me that this is virtually a copy of

the Army Act, to the extent that even the various punishments offences, etc. have been copied verbatim. I would like to give a few examples.

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Clause 17 of this Bill is the same as Clause 34 of the Army Act. Similarly Clause 18 correlates to Clause 36 of the Army Act. All along it goes on like this.

Similar is the case with regard to punishment, which is mentioned at pages 17 to 20. All the punishments which have been there in the Army Act have been included in ITBP Bill. This includes the punishment of death also. When you talk of giving punishment like the death punishment, may be it is understood in the case of enemy action but to apply it to a force like ITBP - which is not of the same category - is not correct. Therefore, I would like to know from the Minister whether it is a deliberate decision to subject the ITBP to a similar act like the Army Act. If that is so, would it not be better to say that they will come under Army rather than under a separate Act? If there are any other reasons for this, we would like to be benefited.

I would like to say that punishment with regard to death sentence needs to be looked into again. In my opinion it is not a correct punishment to be included in this Act. Coming to page 17, para 56(1) you have here mentioned certain punishments which are being given to the subordinate officers. I would like to remind you that in the Army Act (Amendment) Bill, which is going to come up today itself, there is a provision that in order to speed up justice certain punishments pertaining to junior officers, there are now being handed down to the unit Commanders. I would suggest that whatever modifications are being made, either in terms of liberalisation or in terms of making its application

[Sh. Bhuwan Chandra Khanduri]

administratively casier, in the Army Act should be carried here also otherwise benefits that have been given to army would not be available here.

Like the Army Act, a clause regarding the pay and allowances has also been included in this Bill. I would like to submit to the Minister that the concept of penalising the soldiers - either in the army or even in the ITBP - monetarily should be reviewed. There is a standing direction in the army that fines can be imposed for the loss of property of Government. I would suggest that this should be reviewed and this clause, that is 61 (e), should be eliminated. There should be no monetary punishment except for the loss caused to the Government property or such other cases.

Now, I come to the other interesting aspect of summary disposal. What we call in the Army as summary court-martial, here we call it as summary force court. For the information of Members, a person who wishes to prosecute or a person who charges a man with an offence is also a judge A Unit Commander who decides that a man has committed an offence also decides as to what punishment is to be given to him. Normally, such a method is not considered good. The prosecutor and the judge should not be the same. In Army it has been going on because of certain conditions but it is not fair to apply it to ITBP also. I would, therefore, request the Minister to kindly review this aspect. If the Minister still wants to retain this provision, he may please give justification for this.

Similarly, there is summary punishment. Summary disposal means that the commanding officer can give a punishment upto one year to an individual. He just walks upto him, the person is heard and then, he will be disposed of by way of punishment upto one year. It is being done here, because, it is

being done in the Army. I don't think that similar punishment should be given to the ITBP. This also needs to be reviewed.

The last point that I would like to suggest is that there must be an appellate authority. You have talked about the Judge, the Advocate-General or something of that sort that is there in the Army. But, there is a need, in the present context that before sentences - by summary courts, court martials or the various other courts - are actually implemented, there should be a judicial review or in case of punishments which are of harsher nature, certainly, the individual should have the freedom for applying to a separate civil appellate authority so that justice can be given promptly and he does not have to wait for a longer period to go to the civil courts independent of this court's order.

Therefore, I would suggest to you - though I accept the necessity of having a strict, if not stringent code of conduct for a force like to ITBP - that it should be seen in the context of the type of past performance of theirs and also the duties that have been assigned to them and not by just comparing the Army which has not entirely a different role, particularly, in the case of the enemy. Therefore, I would suggest that this Act should be reviewed in that context.

SHRI SUDHIR SAWANT (Rajapur): I rise to support the Bill. The ITBP was constituted at a time when India was facing, after independence, a most dangerous situation. It was constituted in 1962. At that point of time, the situation was such that there was totally a lack of any force operating in the areas like Jammu and Kashmir, Himachal Pradesh or Uttar Pradesh. Hence, ITBP was created. What we have to really see today is whether those conditions which made the constitution of this force necessary are still relevant. More about this, I will speak later.



But one thing is certain that I welcome this Bill because, at last, there is some form of document on which the officers of this force can rely on. However, there are many aspects which need to be considered. As Mr. Khandhri has just now pointed out that this particular Bill has been brought forward by taking some portions from the Army Act and some portions from the BSF Act. I feel, the application of mind required to go into the condition of that new force is totally lacking. All the ills of the Army Act have been incorporated. Take the example of summary disposal of cases. As Mr. Khandhuri has just pointed out, it is a draconian measure. While speaking on the Army Act, we are going to speak about this point also. The Indian Army Act was brought into force by the British Government to subjugate the native infantry and to that extent, even today, we have the colonial legacy being carried on in the Army. Take the example of summary disposal. In fact, there is no trial. The person walks upto the commanding officer, the commanding officer sentence him for one Year's rigorous imprisonment, then, he is thrown out of the force and he is put in the jail.

Here, there is no appeal. In independent India, I don't think there should exist any such situation where the human rights are trampled on, where people are sent to jails just because there is no button in the shirt or just because a person is on leave for one day due to fever, he is sent to jail for one year. These are examples which are happening today. The personal aspect has played a major part in some cases. By and large, the officers cadre is responsible; by and large, the decisions are fair. But what about those instances where there have been excesses, where personal enmity has been taken into account while giving decisions.

There are Sections 25 and 43 of this particular Bill. Section 26 is with regard to unbecoming conduct. Now, what does this mean? This is an offence in the Army Act

which has now been brought into this Bill. Section 26 is with regard to unbecoming no conduct. The discretion of deciding unbecoming conduct vests on that officer or the authority; he may decide in any manner. I oppose the inclusion of this section in total. So also we have Section 43 - violation of good order and discipline. What is good order and discipline? It is nowhere described; where you cannot find a fault with an individual in any particular offence you place him under Section 43; this is a copy of Army Act 1963. Even if person does not stand properly, he can be charged under the Army Act 1963 and under ITBPF Bill. And hence these things have been taken mechanically; and they have to suffer imprisonment for a term which may extend to seven years. For what action it is for violation of good order and discipline which is going to be determined arbitrarily. And that is why, in any Act or any Bill, where there is scope for arbitrariness, the Act shall be condemned; it cannot be accepted in modern India.

We had drawn the Indian Army Act, then the Army Act from the British. The British had a different Army Act for themselves or different Army Act for the Indian Army. Now that Army Act has been picked up and placed into ITBPF Bill. That is why, I would request the Minister that he must seriously reconsider clauses of this Bill because we cannot accept this Bill in totality as it is. Why should this section be there? Why should there be a summary Act disposal in today's circumstances? There are many loopholes in this Bill which must be reconsidered.

Now I will come to the most fundamental issue which we must address to ourselves, that is the organisation of the para military forces. Do we require today ITB Police Force when we have BSF, Assam Rifles, BRPF. Out of these three do the same role. The Assam Rifles have to guard the borders of this country. Now, having more forces is just an exercise which is futile; having a

[Sh. Sudhir Sawant]

number of forces is nothing but putting strain on the economy of this country. If you want to have new forces, it means you have to have a Headquarters; if you want to have new forces, it means staff, training establishment and crores and crores of rupees of the State exchequer have gone into such like activities which have no effect on the ground.

What we require today are individuals operating on the ground; and we must cut down the tale. I got down into teeth to tale ratio on the Defence Budget; and similarly teeth to tale ratio of the para military forces must be harmonised to the optimal requirement; and hence we must consider whether ITBPF Bill is required today in its present form or it must be merged with BBF or the BSF must be merged with the ITBPF. We cannot afford that. There is still another term of creating one force for anti-terrorist operations. We created NSG for a different role but now it is involved in another role. You have created in the Army another particular force, Rashtriya Rifles. What that Rashtriya Rifles have served, I do not know? In this connection, we must take a decision to stop having a number of forces. In J&K, you see, number of forces are operating there. There is no coordination. There is cross-firing. People have died of their own bullets. This is what is happening due to the lack of coordination. That is the particular issue, which we must address.

SHRI SUDARSAN RAYCHAUDHURI (Serampore): Where has it happened?

SHRI SUDHIR SAWANT: That was, when I was in the forces, so I cannot come out now. But this is what is happening. In private, I can tell you.

Another aspect to which I would like to draw your attention is about the Customs Act. ITBP is supposed to do anti-smuggling

operations. But what about the applicability of the Customs Act? ITBP has not power to investigate, to lodge investigation. ITBP has no power to prosecute. What do you call it; a Police Force? There is lot of rivalry on these borders as far as the Customs is involved on the one side and the ITBP on the other side. ITBP has not authority to lodge investigation or prosecute hence how it can do that role of anti-smuggling, I fail to understand.

I placed some view in front of the House. I would request the Minister to kindly consider these aspects in national interest.

First of all, we must bring out a firm policy as to review all the para-military forces and develop them into an optimal level of requirement of this country.

Secondly, I would request and reiterate the point made by Maj. Gen. Khanduri about the appallete authority. Appallete requirement of the appallete authority is a must. I would request the Minister to consider to go into the appallete side of any decision take at the executive level or at the administrative level. Thank you Sir.

15.59 hrs.

[SHRI TARA SINGH *in the Chair*]

[*Translation*]

\*SHRI SUDHIR GIRI (Contai): Mr. Chairman, Sir, I shall speak in my mother-tongue. Since their birth, human beings had been struggling against all odds. At the outset they struggled and later they became united and formed themselves into group. That was how society came into existence. They became the part of the society and tried to find out the ways and means for their survival. But after sometime, a part of the society whom we term and recognize as authoritarian force wanted to establish their authority and supremacy separated the other

\*Translation of the speech originally delivered in Bengali.

part of the society and fragmented it. We have seen how these authoritarian forces created state machinery so as to preserve their own self interest. With the creation of state machinery the conflict also started inevitably. This conflict between man and state machinery is nothing new. It was there right from the beginning. The state machinery formulates rules and enact certain acts so as to preserve their interest or in other words to protect the interest or in other words to protect the interest of selected few in the society. So, the conflict, the clash between state machinery and man started and this conflict is still continuing.

The Indo Tibetan Border Police Force Bill, 1992 is going to be passed. So at the outset we must admit that conflict would definitely arise between the Government and the common soldier. Mr. Chairman, Sir, the Indo Tibetan Border Police Force came into being in 1962 during the Indo China border conflict. The force has dual functions. On the one hand it has been charged with the responsibility of ensuring the security of border, instilling a sense of security among the people living in border areas and preventing trans-border crimes, smuggling and unauthorised entry into or exit from Indian territory, and on the other hand, the Force has been assigned bank security duties and other sensitive duties in terrorist afflicted states. So, this Force has been assigned both external and internal duties. But we must remember that there is a basic difference between the functioning of the police and army. It is not proper to consider the functioning of Police and army equally. Their fields of work is different and they cannot be judged at par. The Indo Tibetan Border Police Force has been assigned different types of responsibility. The conditions of service of the Force have been mentioned in the provisions of the Bill. These conditions will be decided by the Central Government. I feel the measures taken for the functioning

of the Force should be formulated in such a way so that the Force can be regulated in efficiency and discipline. It is not proper to treat the functions of the Police and the Army on the same level and press this Force to perform the duty of the Police. We should have this outlook and judge the whole thing. Otherwise, the basic purpose of the bill will be useless.

Sir, this Force has been assigned the responsibility of bank security and was used against bank robbery. Again this Force was charged with the responsibility of ensuring law and order situation in Sports events like Asian Games. Besides, this Force has also been entrusted to check internal disturbances. But this Force should not be used for internal purpose. They should be used for the protection and security of our border. They should be assigned the responsibility of fighting against the external forces and protect the motherland. Sir, the State has a tendency to make the Army inhuman. We have witnessed this tendency right from the days of slavery, Feudalism to capitalist system. This Force sometimes is involved in criminal activities. This happens because the cultural aspect, the developmental aspect is neglected. So, the Government must see to it that the mental, the cultural activities of the Force are developed in such a way that the standards of efficiency and discipline of the Force are ensured and attain the high order. They should be treated sympathetically.

Sir, Clause 13 of the Bill provides that the member of the Force would be debarred from participating in trade unions, labour unions, political association etc. Sir, my submission is, why they should be debarred from participation in union activities. Man has democratic right to develop his mental faculty and personality. Our Constitution has provided right to express one's ideas

[Sh. Sudir Giri]

through union, associations. Why the Force should be deprived of the Constitutional rights? Today we find how religion has been used to create conflict among people.

The Police acts in a partisan manner during communal disturbances protecting the people belonging to his own religion. Now the Force would have the right to participate in religious association. But they would be debarred from participating in trade unions, labour union, political association. I feel this attitude has destroyed the democratic rights of the Force. We must see that the democratic rights of each member of the Indo Tibetan Border Force should be protected.

With regards to punishment, we find that there is difference in punishment between the officers and ordinary soldiers. But this is not proper. They should be treated at par. They should not be differentiated. But in this case, the Bill provides for the differentiation in respect of punishment in respect of dealing with them. We feel the crime related to property and other criminal act should be treated at par. These should not be different. I draw the attention of the Honourable Minister in this regard. The same rule should be applied both for the officer and the ordinary soldier.

We come to know from the newspapers and also sometimes from the known people in the Army that there is too much corruption in the Force. According to Hon'ble Minister unbuilt mechanism is there for the prevention of corruption. What kind of penal legislation is this? There are two types of corruption, one is related to property and the other related to other criminal activities. This corruption cannot be stopped by unbuilt mechanism. My suggestion is that the secrecy essential to protect from the external foes should be maintained. But, regarding ad-

ministration there should not be any secrecy. There should be open discussion in this regard also.

Sir, we know the significant role of Army. Since 1962 this Force has been protecting our border and its role is commendable. We thank them for their excellent job. We appreciate the difficult task they are performing in hilly inaccessible areas. But we must also request them to be a more alert so that the gurreilla trained commando of Pakistan cannot enter our territory. We request our Army through this August House that their task for the protection of motherland is highly commendable and we expect more alertness and consciousness from them.

SHRI SOBHANADREESWARA RAO VADDE(Vijayawada): Mr. Chairman, Sir, thank you for giving me an opportunity to speak on this Indo-Tibetan Border Police Force Bill.

These Indo - Tibetan Border Police personnel are working under very difficult conditions. A part from protecting the borders in very very adverse climate conditions over a very long border of more than 2000 kms. and altitudes varying from 2800 to 5400 kms, they are also helping in various other aspects that is providing security cover to a number of VIPs in the capital and to out High Commissions abroad and also the banks in Punjab. I may mention here that Punjab is a troubled State because of the continued activities of the terrorists and which requires more security personnel.

My learned colleagues, Maj. Gen. (Retd.) Bhuwan Chandra Khanduri and Shri Sudhir Sawant, who had the privilege to work in the armed forces, have very valuable suggestions. So, I will not repeat what my friends have said. I take this opportunity to make only two suggestions in this regard to the hon. Minister.

After formation of the force in 1962 and after three decades, a Bill has been brought forward. Let us now go through the Bill. If some lapses, deficiencies or mistakes are committed by the people, who are working, in this Indo-Tibetan Border Police Force -, it is mentioned in this Bill as to how they have to be tried and what should be the penal measures that have to be taken against them. I being a person who is not connected with any of these things, I will not venture to make any suggestions in this regard.

My suggestion to the Government is please examine the present provisions as to how it can help their families and make necessary changes in the Policy to help liberally the families of such persons who are working in the Indo-Tibetan Border Police Force and who lose their lives in the discharge of their duties.

I also want to make another suggestion. Keeping in view all the severe stresses and strains under which they have to function and the adverse climatic conditions under which they have to work, the period for which they have to work compulsorily before availing retirement benefits, should be reduced or alternatively the quantum of retirement benefits may be enhanced.

With these two suggestions to the hon. Minister, I extend my support to this Bill.

[Translation]

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Mr. Chairman, Sir, Indo-Tibet Border Police Force Bill has been introduced by the hon. Minister in the House after 32 years. First of all I would like to know the reasons that proved the existing law inadequate and warranted introduction of a new Bill. Secondly, the Border Security Force was formed to protect the country from foreign threats. But it is deployed in the country in the name of maintaining law and

order. Different para-military forces viz. CRPF, BSF, Anti-Terrorist Force and ITBP have been formed in the course of time will have to perform the same type of duty. Though all these forces have district organisations of their own and have been formed to defend the country, but now a days these are being deployed for one type of work i.e. maintaining law and order in the country.

Above all, there are two different provisions to award punishment to its officers and Jawans. This practice was prevalent during the British days when punishments for Indian and British soldiers were different. But today ours is an independent country and we call ourselves an advanced country. These provisions are to justified today. Therefore, I would urge the hon. Minister to reconsider the Bill. Keeping in view the direction to which the mankind is moving today and today's mechanical way of life it would be in the fitness of things to reconsider the Bill before it is discussed in the House. With these words I conclude.

SHRI DAU DAYAL JOSHI (Kota): Mr. Chairman, Sir, the task which had been pending for last about 29 years is being accomplished by the present Government. The circumstances under which the Indo-Tibet Border Force was formed are known to people of the entire country. It was the time when slogans of 'Bharat-Chini Bhai-Bhai' were given and the country was not prepared to face the chinese attack. It was the time when China played treachery with us in the name of friendship and attacked our country suddenly leaving us in a state of Utter helplessness. Because, Indian forces were totally ignorant of the area and routes in Chinese border. Due to this our forces had to suffer a heavy loss of life. There was none to guide our forces. It was situation which warranted the formation of a police force exclusively to defend the Indo-Tibetan Border.

[Sh. Dau Dayal Joshi]

It is better late than never. Though late, after the formation of the force in 1962, it is for the first time that the Government brought forward a Bill with a view to streamlining the working and service conditions of the force. The performance of this force during the last several years has been very good. It won several medals. It won about 40 life saving medals and 22 President's Police medals. The Government is doing a good thing to further streamline the working of this force which has already rendered yeoman service to the country. However, I do agree to the views of Shri Khanduri who is an ex-Major General in the Army that it has been brought forward in a haste without properly studying and analysing various aspects. The Government is going to apply the Army rules on police which is not at all justified. My submission is that the nature of duty of the Army is different from that of police. It is true that the Army is deployed to defend the borders of the country and the Indo-Tibet Police Force is not inferior to it in any sense. But keeping in view the circumstances in which this force has to work, their service conditions are not appropriate. I regret that though the motive behind the presentation of this is Bill welfare of the personnel of this force. Yet only rules are being made stringent for them but no provision is being made to provide adequate facilities to look after and support their families. The allocations for this force were Rs. 113.25 crore in the 1991-92 Budget. The introduction of this Bill would not make any difference in that. Only an additional amount of about Rs. 10.8 lakh would be spent by the Government on appointment of Judges, Attorney General and other officers of the establishment branch.

Mr. Chairman, Sir, I returned from the northern region of Jammu and Kashmir only yesterday. I know that the people of that region feel insecure. A similar police

force has been constituted there. It had the objective to ensure the security of borders and to arouse a feeling of security in people's mind living in that area. It was also to prevent infiltration of smugglers. But what is the present situation in Jammu? Today nobody has faith in Jammu-Kashmir Police. The Jawans of J&K Police has lost their credibility. A large number of people living in border areas and also the retired personnels of Army said in one voice that their lives are not safe due to faulty policies of the Government. It is very shameful thing for the Government. There is a great fear in their minds that even after repeated assurances and the forceful declaration of the Prime Minister from the ramparts of the Red Fort that Kashmir is the integral part of India, Kashmir will remain in India. The situation that I and my party noticed there is that entire Kashmir is going to be lost from our possession. No Indian Officer hoisted national flag anywhere in Kashmir on the 15th August. Mr. Chairman, Sir, I am afraid that due to the inaction of the Government a big part of Jammu is also slowly going out of our hands. In Doda, where I went with Dr. Laxmi Narayan ji the extremists and militants have established their full hold and it seems that one Jammu will also come into their grip. There is only one way left out. Today the terrorists are possessing AK 47 and AK 57 rifles but the citizens do not have much weapon. Earlier every Hindu family had old weapons, rifles but two years before those were forcible taken from them and were deposited. Today all the Hindus are helpless in Jammu. They ask as to ultimately who will give them protection?

Mr. Chairman, Sir, I want to submit to you that the women there told our group of three persons that they would not let us go from there and they will gherao us. They told us that we had visited there on behalf of the B.J.P., therefore, some arrangement must be made for them. They asked us to make

arrangements, for the return of their Arms, rifles which were forcibly deposited by the authorities. Our men will fight and afterwards if the situation so arises we will also fight and die. They told that if we could not do anything, they should be given capsules of Potassium cyanide. This is the plight of mothers and sisters there. They say that they do not want to see the occurrence of the incidents which took place in Kashmir. They want to maintain their existence. They asked us to pass their message to our leaders like Shri Advaniji and Shri Vajpayeeji that if the Government cannot return their arms they should be given Potassium Cyanide Capsules.

Through this Bill I want to submit to the Government that the basis of constituting Indo-Tibet Border Police at the time of Chinese invasion in 1962 should be taken into account of because the credibility of J&K Police has totally lost and a sense of disbelief is prevailing in the entire J&K border area. Militants are being given training in J.K.P. training Centre, Udhampur. The person having training there give training to militants. Such is the condition of the J.K.P. today. Therefore, my submission is to constitute a force re-employing the ex-service-men who can protect the entire border area in Jammu. Otherwise, I am afraid that despite the repeated declaration of Shri Narasimha Rao, Kashmir is in danger today. Its prestige, the mothers and sisters there are in danger. A new military force may kindly be constituted so that the situation may be controlled there, otherwise the situation there may further deteriorate.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M.M. JACOB): Sir, I am happy that the Members who participated in this discussion on the Bill

have contributed valuable points for the consideration of the Government.

At the outset I would like to thank the Members and I must also tell the hon. House that we should have brought this Bill much earlier. This is the 30th year of the formation of the ITBP. A question was asked 'What is the special necessity for ITBP? Why not you think of consolidating all the Forces as one and have one policy?' Sir, each Force has a distinct specific role to play and so even the formation of the ITBP was necessitated at a time when the Chinese aggression became a reality and we had to have Forces who are trained to handle on that terrain so high, almost 10,000 or 15,000 feet or even more than that.

[Translation]

SHRI RAJVEER SINGH (Arola): Mr. Chairman, Sir, I am on a point of order. There is no quorum in the House.

[English]

MR. CHAIRMAN: The bells is being rung-

Now there is a quorum. The hon. Minister may continue.

SHRI M.M. JACOB: Sir, I was trying to answer some of the points raised here. The Indo-Tibetan Border Police was formed at a crucial time for a specific purpose to handle that terrain of the border area of India where a specially trained police force was required. This was considered as a part of CRPF for all practical purposes, because we did not bring a separate Act for Indo-Tibetan Border Police Force at that time and it was considerably a small force. Later on, the strength of the force has increased and the requirements also have increased. So, a time has come when we should have a special Act for the Indo-Tibetan Border Police.

[Sh. M.M. Jacob]

A question could be asked as to why you have not discussed fully about it. Most of the provisions under this Bill were discussed in this very same House under CRPF, under BSF, under Army Act and several other related Acts which we have passed in this House. So, actually, this is a blending of various provisions that are existing in the CRPF Act, Army Act and other Acts.

We are very happy, as one of the hon. Members has mentioned, that the ITBP has made a tremendous impact in the areas of its working. Recently, in Uttarkashi, in the earthquake relief operations, the ITBP has played a tremendous role. In the Asian Games, they made a remarkable contribution. In Punjab and other places, it has done a good work. Actually, if there had been other police forces, then we would have withdrawn the ITBP from those places. In fact, I wish that the ITBP should concentrate on the border areas where they are intended to be more useful and for which they are trained. But, at the same time, other methods of training are also given to them because of the developments of insurgency, terrorism, militancy and so on and so forth. So, various types of training had to be given to them. So, in the context of the new scenario, we thought that a separate Act is good for the ITBP where they could have the satisfaction that they are a full force with their own Act and they could be taken care of properly.

Sir, I am really thankful for the very good suggestions given by the hon. Members. When the rules are framed under this Act, many of the suggestions given by the hon. Members will be taken care of and any anomalies noticed in the welfare and other things could be rectified in the rules. Then, with regard to the question of having a sepa-

rate Act for this force when CRPF Act is there, I would like to submit that the CRPF Act do not meet the full requirements for effective regulation and administration of the ITBP. That Act is not sufficient and that is why, a separate Act has been brought forward.

Hon. friend, Shri Khadnduri has made very valid points. Some of the suggestions are very excellent. One of the points which he has made is, why there is power for awarding severe punishment. He asked, why there should be dismissal from service and why pay and allowances and other public money to him should be forfeited. I would like to answer these two points because there will be some confusion. The provision of confirmation of a sentence awarded by the Force Court by the Central Government or by superior officer is a time tested provision which is existing in the Army Act, the BSF the NSG Act and in the Acts of other armed forces. The hon. Members are also aware of that. With this provision, a check by appropriate authority over the exercise of such powers of the Force Court to minimise any chance of injustice, has been provided. The accused can prefer a petition to confirming authority before confirmation of the sentence. He has the right to prefer another petition before the Central Government or Director-General or any prescribed authority superior in command, after confirmation of the sentence. In addition, clause 59 of this Bill confers *suo motu* powers of review of proceedings, if any punishment awarded under Sections 83, 84 or 85 appear unjust, illegal or excessive to a superior authority envisaged under section 88. Such authority may cancel or remit or vary the punishment. It is pertinent to mention here that pre-confirmation petition and post-confirmation petition are examined by the Judge-Attorney General who is not associated with the trial. Hence judicial review is available to the members of the Force in the matter of punishment, through in-built mechanism.



Reduction of money is another point which is mentioned. It is not true that all the money is going to be taken out or forfeited. In fact, the General Provident Fund, Risk Premium Fund Central Government Employees Insurance Scheme and such other things will not be forfeited. It is only in regard to pay and allowances which are due to be paid at the time of punishment which would be forfeited. I think, I have made this point very clear.

Why are severe punishments given? Some of the hon. Members have asked why such punishments are severe. Severe punishment is considered necessary to cover all the situations. For instance, there may be insubordination which may be in different forms such as refusing to shoot an enemy or terrorist or refusing to salute a superior officer. It is not possible to lay down a particular sentence to cover the wide-ranging possible offences coming under the same definition.

Similarly with regard to theft of Sten gun or something like that it is desirable in either case to provide sufficient courses to provide variation in the range of punishments. So, it is not true that punishment is severe for everything.

Another question was asked—why the same punishment as in the Army Act is provided. Is it deliberate? There is a need to have a re-look at the death sentence again. I may say that ITBP is also to act in the face of the enemy. They are facing enemies in the border areas with similar circumstances. The consequences are the same. So, discipline cannot be tolerated if you want a good result. Therefore, it requires similar level of discipline. For this, provisions are made there knowing fully well that we are equating them to the Army at the point when they are facing a similar situation.

Another question was asked again: "Why are you linking with the Army?, When

they are in the border areas, they are actually under similar situations like that of the Army. If there is another type of rule, then there will be some kind of variation and difficulties at the operational level. So, we thought it is advantageous to have provisions similar to the Army Act applicable for the ITBP personnel to that point as well.

Another thing is about verbatim copy of the Army Act. That is one question asked by our ex Army Officer. He asked whether it is a verbatim copy. Some items are drawn from the Army Act and some from BSF Act, some from the NSC Act and a few from CRPF Act. So, this also is, as I said, a variety of duties conferred upon ITBP. From experience, we understand that some variations are required to make them more efficient and more active and more purposeful.

Lastly, in the event of war, ITBP has to work and fight the enemy under the same Army control. So, I think there is no fault in combining all these in the appropriate manner at the appropriate level.

Another point asked is, why right of appeal has not been provided. Some hon. Member mentioned that there is no right of appeal. This Bill has been prepared in the light of the Army Act in those particular areas and the BSF Act, as I said. The punishment awarded by the Force court shall not be carried out until confirmed by appropriate authority which will eliminate the chances of injustice. In this regard, provisions will be made in rules, as I mentioned earlier, in the existing Act and this could be certainly considered. Regarding the right of appeal, I have already mentioned in the beginning and I do not want to add at the moment.

One or two points more and I will conclude. The powers under Customs Act, 1962 have been delegated to BSF personnel and ITBP personnel even today. It is not

[Sh. M.M. Jacob]

a new thing, as they are deployed on borders of the country and they have to check the border crimes and smuggling. So, even now the powers are given to them. Power under Sections 100 to 110 of Customs Act which deal with search, seizure and arrest etc., necessary for efficient performance of duties for the purpose are given to them. That is why, Clause 154 has been provided in the Bill to delegate such powers to Members of the Force.

A question was asked about the right to form trade unions. Unless we maintain a high standards of discipline, it is not possible to extract real work and maintain the character of the Force. Even Article 366 of the Constitution provides explicitly that Parliament is empowered to restrict, even abrogate the Fundamental Rights of the Members of the Armed Forces. It is permissible and it is necessary. There is an inbuilt system of *Sainik Sabha* wherein members of the Force openly bring out grievances or ventilate individual grievances or grievances affecting other members of the Forces. Besides, there is also a system of Request Room through which the members of the Force can ventilate their grievances. They can also petition under Clauses 14 and 15 of this Bill.

As regards religion and other things, all freedom is there. There is no restriction and no problem.

One last question is there: is there a difference in punishment for officers and other men? Officers and men are treated equal for punishment, for the crimes committed. It is the crime that determines the nature of the punishment. Otherwise, it is not.

Regarding welfare measures etc. which are mentioned here, they can be brought in

in the rules. We are conscious of it. We will certainly take note of it.

Sir, I am also happy to say that recently, as you are aware, a batch of the ITBP personnel have climbed the highest peak on Mount Everest. That batch include a lady by name Santhosh Yadav. They have brought victories to our country. It was a very good thing that it was recognised and even it was recognised by the Parliament. They have again gone on a Indo-Japanese Joint Women's Expedition Team. I am happy they are progressing in their march towards the peak very well. I hope they will bring laurels to the ITBP and to the nation in the Joint Expedition.

I thank you very much. I want our hon. Members to pass it unanimously. The suggestions are well taken and we will certainly see that they are included in the rules.

MR. CHAIRMAN: Mr. Khanduri wanted some clarifications.

SHRI M.M. JACOB: I think I have answered his question.

MAJ. GEN (RETD.) BHUWAN CHANDRA KHANDURI (Garhwal): I would like the Minister to clarify some aspects. You have mentioned about the Court of Appeal. What are you trying to recommend? There should be an independent Court of Appeal. Regarding the Army and all these Paramilitary Forces what you have mentioned is about the Judge Advocate General. What happens is that the processing channel is through the same people. If it is the Army, then the same set of officers or people who have indirect vested interest in seeing that the ruling of that Court and the decision of the Court is upheld, they process it. Therefore, the recommendations was that there should be a Special Court of Appeal which is independent of this Force, which has nothing to do with this Force.

Even the Judge Advocate General in the Army and even in this Force, would be an art of the system. Therefore, it is not humanly possible for these people to act independently. A Court Martial decision is rarely challenged by the Judge Advocate General because it is under the advice of his own officers that the Court functions. So, to say that they are not connected is not a right thing. I therefore wanted to say that you should kindly consider setting up of an independent Court, Special Court of Appeal particularly for the Court Martial case or for all the forces. (*Interruptions*)

Second thing you have mentioned is about the monetary aspect. I was saying that in this Act like the Army Act, there are provisions that are fine can be imposed as punishment, not for the loss that has been incurred, for the loss of property etc. But it is common to say that a Commanding Officer gives as fine seven days' pay, 14 days' pay. The Court Martial or the Force Court can give any amount of punishment in terms of fine. My suggestion is that a soldier should not be hit as we call in the Army.

[*Translation*]

**"Do not deprive a person of the means of his livelihood."**

[*English*]

You punish him physically. You give other types of punishments. You give a physical punishment which is quite tough. You give him a jail punishment. I therefore recommended that as a fine separately by itself should not be imposed on the soldier.

MR. CHAIRMAN: It is not a recommendation.

[*Translation*]

SHRI DAU DAYAL JOSHI (Kota): Mr.

Chairman, Sir, the one thing that I have to submit is that the hon. Minister did not state clearly that why this matter has been kept pending for 29 years. The second thing that I want to submit is whether the Government will revise their terms and conditions of services or not because all the forces like the B.S.F., C.R.P.F. and the I.T.B.P. have their different terms and conditions of service. Whereas all the three forces are working on the border. Therefore, the difference in their terms and conditions of their service is not justified. Will the Government clarify my query whether it will improve the terms and conditions and pay scale of their service in the light of the awards which have been given to the I.T.B.P.

[*English*]

SHRI M.M. JACOB: Sir, regarding the first point made by my hon. friend about the independent nature of the Courts, I would say even in the present Bill which is before you, which I wanted you to get it passed, the Judge Attorney General, about whom I have just mentioned, is not associated with the trial in the case. So, he will examine the petition independently. That is the point. For a special court to be constricted by all the forces as an independent court is a good suggestion to be considered for future. We have to think seriously not only about this but may be for many things combined. That is a new suggestion which all the forces, all the groups will have to consider about its possibility and feasibility.

Regarding the other thing that is mentioned just now about the service conditions and other facilities to the members of the forces, when the Act is made that itself gives a real opportunity for a scrutiny and then an in-depth study can be made. If there is anything missing or if there is anything wanting, we can certainly provide that. That point will be taken care of at the time of implementation

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ARMY (AMENDMENT) BILL

and if anything is necessary, it will form part of the rules.

MR. CHAIRMAN: The question is:

"That the Bill to provide for the Constitution and regulation of an armed force of the Union for ensuring the security of the borders of India and for matters connected therewith, as passed by Rajya Sabha, be taken into consideration."

*The motion was adopted*

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That Clauses 2 to 157 stand part of the Bill."

*The motion was adopted*

*Clauses 2 to 157 were added to the Bill*

MR. CHAIRMAN: The question is:

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

*The motion was adopted.*

*Clauses 1, the Enacting Formula and the long Title were added to the Bill*

SHRI M.M. JACOB: I beg to move:

"That the Bill be passed".

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted*

16.52 hrs

[English]

MR. CHAIRMAN: The House shall now take up Item Number 21.

Shri Krishna Kumar to speak.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS AND THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI KRISHAN KUMAR): Sir, I beg to move:

"That the Bill further to amend the Army Act, 1950, be taken into consideration."

Our armed forces represent one of the most disciplined and patriotic sections of our society. They have adopted for themselves a career of commitment and sacrifice for the nation for defending our borders, for defending our freedom and integrity. High morale and discipline are the hallmark in the functioning of our armed forces. In order to ensure that the armed forces function effectively, the chain of command in the armed forces is kept sacrosanct both in peace time and war time to ensure that the jawans, the sailors and the airmen have avenues for redressal of their genuine grievances. The conditions of service and related matters of the armed forces are governed by separate legislation—the Army Act, the Navy Act and the Air Force Act.

Sir, a law relating to the functioning of the Indian army is now covered by the Army Act, 1950. Basically, the Army Act relate to provisions, relate to commission, appointment, enrollment, conditions of service, offences, punishment procedures relating to martial and execution of sentences. For that, the army's rules and regulations gives further details regarding the manner of delay

on these issues. The Army Rules 1950 are statutory in nature. After the promulgation of the Army Act 1950, our army has expanded, the functioning has diversified. But till date, in the last four decades no major amendments have been made in this Act.

Even the Army Act, 1950, by and large, has been taken from the Army Act, 1911. Only a few additional provisions were incorporated in 1950 to bring the 1911 Act in conformity with the Constitution of India and the changed circumstances.

Sir, based on the experience of the working of the Indian Army in the last four decades, Government have thought it fit to bring before this august House certain amendments to the Act. These amendments have as their purpose, providing more flexibility and better delegation of powers in order to more effectively handle the increased manpower and resources of the Army. The second objective is to do away with the harsh, archaic and obsolete provisions which have somehow been carried forward in the Act from 1911, which were no longer in conformity with the modern jurisprudence. And some provisions relate to the elimination of disparities in the Army when compared to the conditions in the Air Force and the Navy, which are governed by Acts which have been promulgated in more recent times.

Sir, the original Army Act contains 196 sections. After careful review of all the sections, Government is now coming forward to make amendments only in 22 sections. These 22 sections can be divided into three categories.

In the first category of five sections, the amendments are merely cosmetic in nature because the Code of Criminal Procedure 1899 has been replaced by Code of Criminal Procedure 1973. But in the Army Act, the

Code of Criminal Procedure mentioned is that of 1898. So, wherever Code of Criminal Procedure 1898 is mentioned in the Act, it is proposed to be replaced by a mention of Code of Criminal Procedure 1973. It is merely a follow up of that legislation and, is therefore, not any fundamental in nature.

Another nine Sections have been necessitated because we propose to delete provisions in the Act relating to field punishment. The field punishment is a carry over from the old British days before independence, Commanding Officers were empowered to impose punishment on offending army jawans and junior officers in the nature of personal restraint on hard labour, even ropes, iron chains, fetters etc. were tied around the offender and he is attached to fixed objects for a certain period in a standing position. All these are very archaic in nature and is not in tune with modern jurisprudence. Happily, there has been not a single instance since independence where this provision, though available in the Army Act, was ever used in our Indian Army after independence nor had any Court Martial awarded some punishment. Since these provisions simply happened to be in the Act and have been carried forward and these are archaic and it is incongruous. It should not be there. So these provisions relating to field punishment are to be deleted. So, nine sections out of 22, only relate to the deletion of these provisions for field punishment.

Sir, therefore, only eight sections out of 22, are of the nature of some substance.

Five relate to the change in the nomenclature of the Code of Criminal Procedure; Nine relate to the deletion of the provisions relating to field punishment and the remaining sections sought to be amended are only eight, namely, Sections 85, 90, 122, 123, 127, 135, 142 and 169.

17.00 hrs.

I will take only a few minutes placing before the House the Rationale for the Government's submission before the House for amending these sections. Amendment to Section 85 seeks to give powers to the Commanding Officers to award reprimand or severe reprimand on JCOs. This provision is not existent in the present Act. The Army's manpower has increased manifold. Therefore it is thought that at the Commanding Officers level itself some provision for a minor punishment is necessary to enforce discipline. Also the Army cadre have been upgraded, so that 75 per cent of all Commands are now commanded by Colonels as against Lt. Colonels in the past. Therefore higher level officers are also there. So this provision is sought to be given in order to enhance the effectiveness of the Command and for greater discipline.

As regards Section 90, in the original section only the Central Government had the authority to issue order for deductions from the pay and allowances for maintenance of wife, legitimate children, etc. of officers. Now the Central Government cannot issue this order for this large Army. This is a provision which related to many decades back. Now the Central Government wishes that this power can be delegated to any prescribed authority at the subordinate level, so that administration is smoother.

The third provision relates to the period of cognizance of the offences. We want to exclude the time span during which offence do not come to the knowledge of the aggrieved persons or the authority competent from the time of three years within which an offence is cognizable. It is entirely on the analogy of Section 469 of the CRPC. The rationale again is that in a number of cases, particularly, fraud, espionage etc., by the time the offence is detected or evidence is recorded, the case becomes time-barred.

So the period required for the offence to come to the notice of the authority is sought to be excluded from these three years. This has been found necessary by experience.

Amendment to Section 123 relates to the liability of officers after retirement. Previously it used to be six months. But it has been found in our experience that many officers who are culpable and who have committed offences close to the time of their retirement escape because they cannot be brought to book within six months. There have been many such cases and on the basis of this experience we seek to exclude on persons who have been evading arrest; disciplinary proceedings at time namely period granted by stay of the court etc., from the six months period. Otherwise people will get a stay for six months and therefore become outside the net of the law. Similarly people may go into hiding and evade arrest and after six months they say that they are outside the purview of the law. So that period is sought to be excluded. Plus, the overall period is extended from six months to three years for reasons of administrative convenience taking into account the fact of the delay or the normal time that is required for legal procedure.

The next Section is extremely beneficial to the Armed Forces. In the original Act, even if the Military Court Marshal finds an officer not guilty and is let off, civil liabilities will be there, criminal liabilities will be there. So he can be charged in a criminal court by the aggrieved person. But the government feels that this is against the principles of double jeopardy and wants to delete this provision from the original Act. So, if the amendment comes into force, if he is found innocent by the court marshal he cannot then be proceeded in a criminal court later by anybody. Therefore, it is a highly beneficial section for the serving soldiers.

The next one is again necessitated by

the expansion of the activities of the Government. In the original Act only documents and examination reports of the Chemical examiner of the Government can be produced in an evidence. Now the forensic law and the various other parameters have been expanded; there are various other technical bodies of the Government whose reports should also be brought into the evidence. Therefore, in addition to the Chemical Examiner, certain additional authorities have also been included in the purview.

Finally, in a Board of Inquiry, civilians cannot be summoned. This amendment in Section 135 seeks to ensure this. In military cases, for instance, in order to find out the reasons for an accident or an offence or anything like that, the civilians can be called by the Military Court of Inquiry for evidence.

The last section is again a beneficial one. If an officer is found guilty and if he is awarded punishment of imprisonment, then the period and if he is awarded punishment of imprisonment, then the period already spent by him in detention, in civil law, in military custody during investigation is sought to be excluded from that sentence. (Interruptions)

I have given in nutshell, an over-view for the rationale for the amendments. These amendments have been brought before the august House after a great deal of deliberation and discussion for many years in the Ministry of Defence and in the Indian Army. These amendments are over-due and they are in the nature of introducing progressive reforms in the functioning of the Army Act.

So, I request that this august House may favourably consider the new amendments. Thank you.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Army

Act, 1950, be taken into consideration".

Now, amendments to the motion.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting the opinion thereon by 15 October, 1992". (2)

SHRI DAU DAYAL JOSHI (Kota): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting the opinion thereon by 20 Oct., 1992." (3)

[English]

MAJ. GEN. (RETD) BHUWAN CHANDRA KHANDURI (Garhwal): Sir, I rise to speak on the Army (Amendment) Bill, 1992. It is nice to have discussion on something pertaining to the Armed Forces. This Government showed lack of wisdom unless it was a deliberate manipulation in not getting the financial requirements of the Defence for 1992-93 discussed in this House. In my opinion, it was a disservice to the national and showed lack of wisdom, if it was not deliberate. If it was deliberate, then it was too bad.

The Government of India is going to spend 13 per cent of budget during the year which is equal to the total plan expenditure. In spite of that, the Demands were got guillotined and passed without any discussion. I am told that this has never happened in this House ever before. For the first time, a new trend has been set which is bad. As it is best of time, the Defence budget gets discussed cursorily under the pretext of secrecy and is treated as a holy cow. But this year that

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formality also was not gone through. This shows the attitude towards Defence.

Another example of indifference is the recent one, Western Command, which is facing Pakistan, which is supposed to be our creek formation—the best fighting formation—did not have a Army Commander for about 7-8 days. We knew that the Army Commander was retiring may be two years back. But this Government did not have time to appoint an Army Commander who is supposed to face our enemy across Punjab. This is the type of attitude that is being shown towards Defence.

Today, we wish to amend this Army Act. This is an Act which was specifically made for the Army in 1950 under Article 33 of the Constitution so as to maintain very high standard of discipline and obedience, the ultimate aim being to ensure "combat readiness", which enables the morale of the fighting troops to what degree where they willingly and enthusiastically give up their lives. They die for the sake of the honour of the country. But the amending an Army Act or more Army Act does not constitute the combat readiness. There are many more aspects.

Today, with your permission, I would like to touch upon some of these. The most vital element of the combat readiness is training and equipment. Today, the state of training and equipment is far from satisfactory. The gross misuse of the Army in non-professional jobs over the years has resulted in a state where the training of the Army is not bothered about at all because during the peace station tenure, the Army is employed in non-professional jobs and the Army's equipment is extensively used for non-professional jobs. We have reached a stage where well-meaning service people

and probably the Government itself has given up even considering this as an impediment to the training and welfare and combat readiness of the Army.

The continued and blatant misuse of the Army for aid to civil authorities under the pretext of aid to civil authorities is well known. This thing has become so common that today when the service people are asked to go to aid the civil authorities, they just take it as if it was a part of the training, as it was something like preparation for war. This trend has become more acute after about 1963. And over all these years, it has been a gift of this Congress Party Government where it has become a tradition with the Army to be used for aid to civil authorities in a most ad hoc manner—the use of Army in Blue Star and its far-reaching implications and for which the Army is probably suffering even today. I would like to go into details of there, for obvious reasons. But I would like to remind this House and the Government that such misuse of the Army on the pretext of aid to civil authorities is bad. But what is even more surprising and worse is that even in routine matters, army is used day in and day out. I will give you two examples to substantiate this. Every year, we have floods in some part of the country or the other and every year, army is called to go and fight floods. Army equipment is used which is meant for war. Why does this happen? Why, all these years, the Government has not taken care to tell the State Governments to have their own equipment, their own organisation? Paramilitary forces can be used when some forces are required in uniform. Every year, around May, the entire army and the corps of Engineers are told to get ready; they stop their training and start preparing for flood relief, start equipping themselves and they are whistled across like a taxi or like a fore brigade for flood relief all over the country. I do not understand why this is going on and on. Nobody is bothered about the stature of equipment and training.



The other example is what is called giving safety certificates for VIP landing at various helipads. This task is also a peculiar one. There is suspicion that at helipads, some explosive might be placed by some terrorists or some people and wherever the VIP lands, the army should go and probe those helipads. Now, the army is supposed to detect the explosive under certain conditions. They do not have the equipment for this purpose. Neither are they trained nor should they be utilised for this. This matter was even put up to the Defence Ministry at one stage to consider that this is not the type of duty which the army should do. But there was no response and the army continues to do such duties. What I would like to highlight and emphasise is not to misuse the army. You can talk of army discipline and other things but the combat readiness will not come merely by having a very strict Army Act or trying to modify or amend it.

The next thing on which I would speak with great pain is the causal, indifferent and criminal manner in which the army was thrown into Sri Lanka under Operation Pawan which ought to have resulted in Nuremberg trial of those people who had butchered our men and officers on a senseless, ill-prepared and meaningless mission.

17.17 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Today, you are amending the Army Act. Why don't you think an Act to try the guilty men of Pawan? Why don't you try those people who send our forces on a mission which was not supposed to be carried out? Do you realise the pain, agony of those people who have lost their husband, old parents who have lost their children? There was a medical officer in Delhi who was a Captain. His old parents came and met me and they narrated how their son was killed. The medical officer was killed, while giving

treatment to the civilians, by the LTTE. Such things do not happen in war. But Operation Pawan was not a war. It was neither a war nor a peace time and the army was thrown into it most casually and callously. The top commander of the IPKF has said, in a book written by him, that the army was made to fight with one hand tied behind its back. Is this the way to treat the army and talk of combat readiness, high morale and good discipline? Sir, Operation Pawan resulted in nearly total breakdown of the morale of the army. It was very sad phase for the Indian Army. What was sad was that at least three of the top ranking senior officers were sacked for some mistake they had committed. Our Ministry of Defence is very good at passing on the accountability and responsibility. Nobody bothered to see as to whose mistake it was and why these senior officers failed but they were sacrificed and nobody was questioned in the Ministry of Defence, in the higher echelons and those people who sent these people on that irresponsible mission.

Coming to the end of the utilisation of armed forces in peace time, I would like to submit that the Government should realise that the army is trained to kill the enemy. It is not trained to fight its own people. Neither is it trained to be used for jobs like flood relief and finding out explosives in peace time which has become a routine. If you need such a Force, you may please have other para-military forces. There are a variety of such para-military forces and just a little while ago, we discussed one of them. Therefore, I would request that this aspect of utilisation of army in peace time in the name of aid to the civil authorities or integral security duties, needs to be seriously thought of.

The other linkage to morale is motivation of men and units. Men should be confident that they will get justice and fairplay from the society and from Government.

[Maj. Gen. (Retd. Bhuwan Chandra Khanduri]

Regretably, very Sir, regretably, today it is completely missing. If at all there is anything, there is a growing feeling among the service people that the Government is indifferent, insensitive and is, in fact, deliberately denigrating the soldiers. And this feeling has justification. The way this Government has treated and handled the issue of one rank—one pension, is disgraceful and disgusting. The service people and especially the ex-soldiers feel cheated. After prolonged discussions and definite promises here, what has been given to the soldiers in the name of one time increase, is simply shameful. A large number of people have been eliminated. Even those people who served only for just a few months after their retirement, have also been denied this one time increase. What sort of decisions are you taking? Do you want these people to be on the streets? This is the type of justice that is being meted out to these people. Let me tell you one thing. You may amend the Army Act and you may put very tough conditions. But if you provoke them into indiscipline, then none of the Acts and amendments will hold good.

At the other end of the spectrum, we have the Service Chiefs. I have given the example of one—rank one pension to show how you have handled the soldiers. Now at the other end, we have the Service Chiefs. Today, the Service Chiefs have no authority in terms of financial powers. A desk officer in the Ministry of Defence has more financial powers than the Service Chiefs. The Service Chiefs have zero financial powers. **The Arun Singh Committee has considered these aspects in great details and it is this Committee which has recommended that the Service Chiefs should at least be given power equivalent to Secretaries to Government of India, in terms of finance. But this Government is sleeping for the last one year. From**

their side, there is no action or reaction on the Arun Singh Committee's report. I have asked them about this number of times but there is no response. Every time they say that it is under consideration. Why cannot you do even such simple things? Is there no concept of accountability or responsibility in the Ministry of Defence? Is there no concept of management? How is it that Service Chiefs who handle 15 lakh people and who are given under their charge equipment worth thousands of crores of rupees, cannot be depended upon to handle a few lakhs of rupees? What sort of management is being carried out in the Ministry of Defence? Kindly look into all these aspects.

In the Defence debate last year, I mentioned all these points. But the Ministry of Defence simply does not respond. Now, the Ministry of Defence appears to be very busy. They are showing a lot of activity. There is a tremendous amount of work that is going on and they are working even for 10 to 20 hours a day. And a lot of inputs are being taken from all over. But there is no output. As I mentioned earlier, during last year's debate on Defence, I raised certain points. Of course, the Ministry of Defence did not bother to act on any of these things. There is not even a response as to what has happened to all the aspects that I mentioned. So, this is the type of response that we get from them. I request the Minister of Defence that he may better be careful about the disease of "analysis leading to paralysis." in his Ministry.

Before I come to the Bill proper, I would like to touch upon another aspect and I say this very painfully. But I feel that I shall fall in my duty towards the Nation and to Parliament if I do not point out this unpleasant aspect. Therefore, very reluctantly, but with a full sense of responsibility, I say that it is very sad for our country that the selection and tenure of the Chiefs today are surrounded with unpleasant controversies. I do not like to go into details. But I would like the

Government to be careful on such issues. This type of controversies should not occur because they affect the morale right from the top to bottom.

If the Government wishes to meddle with the top appointments, then the message that is conveyed to the people down below is very very damaging. It should not be done under any circumstances.

Other aspect which is linked with this is the number of court cases that are there today. Over a period of time, the number of court cases has increased tremendously. Some of them attribute this to the change of attitude, the system in our society. But you can imagine the position when an officer of the rank of Lt. General goes to the court to seek justice, a person next to the rank of the Chief of the Army Staff, goes to a court and files an appeal against the injustice being done to him. We would like you to analyse these court cases. I hope it is being done. The message that is being sent across the country to the services of all rank is unhealthy. It is not good for the country because it is not good for the army. If an officer of the rank of Lt. General, winner of Mahavira Chakra, the second highest gallantry award, has to go to the court to seek justice then certainly there is something wrong in the system of promotions and appointments. I would say that either the Ministry of Defence is a party to it or he is permitting the manipulations that are going on in appointment as well as placement within the services. It is very dangerous trend.

The disciplined army is being thrown into a state which is going to land it into serious trouble if no immediate and corrective action is taken. You are fast slipping into a morass from where it will be very difficult to get out. Therefore, very drastic and serious action needs to be taken. I am not saying this for the sake of making a speech in the House, I say it with conviction. I request you

to ponder deep as to what is happening to the most disciplined Army of the world; where have you taken this Army today?

I now come to the various clauses of the Bill. It is nice that the Army Act is being amended. There is a book called 'Manual of Military Law'. When I was in services, it was said that this book is updated but I found it was more or less a reprint of the earlier book. We need to revise this manual of Indian Military Law and Defence Services Regulation. Large chunk of it is still taken from the good old King's regulations and Queen's regulations. Therefore, this needs to be revised.

As regards Clauses 2, 3, 4, 5 and 8, I agree with you that there is no need to keep them any longer in the Act. Clause 6 and 7 relate to summary disposal of JCOs, which is now brought down to the level of Commanding Officers. It is a good step because a lot of time was wasted in carrying out other formalities. In clause 9 the period is increased. I consider it a genuine administrative difficulty but I caution that just because time is increased it should not lead to lethargy or indifference in handling the cases. Therefore, a close watch needs to be kept.

I have objection to Clause 10, which pertains to trial.

If a man is found guilty of something which he had done while in services, upto a period of six months he could still be tried under the Army Act. The reason given by you is that the period is not adequate. Some people may abscond. Therefore, this period of six months is not enough. My suggestion is this. You have given two changes to this Clause. Firstly, you have given two changes to this Clause. Firstly, you have said that if a person is trying to avoid these six months by remaining absent or if a person goes into hiding due to medical reason, that should be eliminated. Therefore, the Government has

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got this six months period to try out the case and to carry out its administrative formalities. But, simultaneously, you have also increased it to three years. I do not agree with these two things. I would like to know from the hon. Minister in how many such cases in the last five or ten years, where this six months period had been made applicable and in how many cases, they have not been able to take action. I don't think you have many such cases. If you have any such cases, then let us know what are those cases. Otherwise, extending this period to three years is I think unfair to the people who are subject to Army Act all their lives. They have been subject to a special Act. And if you want to continue it for another three years it is like *damocle's sword* hanging over their heads which is not fair.

Now, I come to Clauses 13, 14 and 16. I have nothing much to say but just a few amusing or interesting observations. Clauses 13, 14 and 16 of the Bill intend to replace the Code of Criminal Procedure, 1898 with 1973 code. I would like to know, if this Code of 1898 became invalid or inapplicable in 1973, how is that the Army is still applying all these years -from 1973 to 1992 -this code? How is it that this 1898 Code is being applied by the Army when, it is no more a legal document? Therefore, there is a lapse on the part of the Army or the authorities. In fact, it should have been amended in 1973 itself.

Secondly, Clause 19 excludes British officers being subject to our Army Act. How *hilarious* it would be to say this after 42 years! Army Act was there ever since 1950 viz. for over 42 years. British officers are still being considered subject to this Army Act. Obviously, this Act, ought to have been amended, **not in 1950, at least in 1955 or so. Now, it is too late.**

Before I conclude—I have given an Amendment—I would like to make a suggestion and that is, there should be a Special Court of Appeal against Court Martials, other than the Summary Court Martials. This is necessary. As I said a little while ago with reference to the ITBP Bill, there must be an independent agency to review the decisions of the Court Martials. The Court Martials have tremendous power. They are by and large free and fair. But, there can be cases where they are not fair. So, the accused must have the satisfaction of having a Court of Appeal which is entirely independent of the services.

Therefore, I would suggest I had given the details in my Amendment—this thing. I would not like to talk on that. But the concept of independent Special Court of Appeal should be accepted.

With this, I support the Bill, with the provisions and so on.

SHRI K. P. SINGH DEO (Dhenkanal): Mr. Deputy-Speaker, Sir, I welcome the Bill. I echo the sentiments of Maj. Gen. Khanduri because it is always a welcome feature when the armed forces or anything connected with the armed forces are discussed in this august House.

Apart from Rs. 17,000 crore which we spend without scrutiny or applying our mind to which we have had debates earlier on, I think, it is, we, who owe it to the services men and the ex-servicemen to not only show our concern but to show our solidarity with their problems.

After all, they are doing a very very difficult job under very difficult conditions; and they are a group of people whose fundamental rights are abridged; they are unable to ventilate their grievances as other normal citizens, although they do have a channel for redressal of grievances.

I congratulate the Minister of State, Shri S. Krishna Kumar for having brought this Bill, although as is the past practice, we do speak about the importance for this subject, but, we do not practise it as you can see from the attendance for the House; there may not be even 50 Members, although I am not raising the question of quorum.

Just a few days back, we did celebrate 50th Anniversary of Quit India Movement, paid eulogising tributes to the freedom fighters and those who struggled for India's freedom; and also we celebrated our Independence Day. But the notable role of the Defence Forces, the Naval Mutiny, which facilitated and made it possible for the independence to come at much quicker than we expected could have been eulogised also. And I share the feelings of Maj. Gen. (Retd.) Bhuwan Chandra Khanduri; and I do have firsthand knowledge, the sense of neglect and the demoralising effect it has not only on serving soldiers, but those who have given their best years of life and our ex-servicemen at the moment. I would not like to go into the very details of the role played by the armed forces today. If one were to see some of the comments in the Press one will find that it is very revealing. One says about the Army being used as fire brigade. I am quoting only a couple of lines from an article by Manvendra Singh. It reads as follows:

"The intensity of fighting in recent operations to regain control of Doda in Jammu must cause worry to decision makers in New Delhi. By all accounts India lost Doda for some hours, and the operation had to depend on military help to reinforce Indian authority. To preserve the integrity of India is certainly the basis for having a military capability, but what is disquieting is the regularity with which the Centre falls back upon the Army to *extricate* itself from a tight spot.

This tendency is fundamentally flawed, for it presumes that the Army is a perennial fire brigade, and it overlooks the psychological damage done. Whether it is communal problems in Kerala, Ahmedabad or elsewhere, Delhi inevitably supposes that it is okay to use the Army."

And Maj. Gen. (Retd.) Bhuwan Chandra Khanduri, of course, has mentioned its role in its Operation Bluestar and the consequential events. It further reads as follows:

"The Army is never a solution to civil disorder, and deploying it has a *corrosive* effect. The damage caused by Operation Bluster is yet to be handled, with the mutinies appearing in its wake not suitably analysed. Army training also suffers by intervention in what are essentially political problems."

Now the armed forces and the ex-service men have not only preserved the hard won independence and freedom of ours but the integrity and sovereignty and unity of our country. Sometimes they made supreme sacrifices. It has been a saga of heroism and sacrifice. And I am sure, you must have gone to the cemetery either in Dimapur or Kohima or here in New Delhi. What hits between the eyes is the young people who have laid down their lives; whether it is British; whether it is Indians; whether it is the Indian National Army or whether it is the Indian Navy.

What does it say, "when you go back, tell them of us; for their tomorrow, we have given our today." And these are the people whom we are supposed to show concern. This year Rs. 17,000 crores' Budget, we did not discuss even.

I was in the adjoining room in a Military

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Hospital, only one and a half years back and there was a Lieutenant-General in that room. He was in-charge of discipline and welfare of the Armed Forces. He had requested Rs. 5 crores for 4,687 maimed *officers* and men, young people who had come back from Sri Lanka.

What did our *benign* Government do ? They said, "we will provide you Rs. 1 crore, you take the rest of Rs. 4 crores from the Canteen Funds or Canteen Profits." What did this Lieutenant-General want this for ? Half of them have been injured below the waste; some of them have lost their legs, some of them have lost their sustenance. They have become handicapped, they were going through living death. Their relations, their wives, their children came and requested the Chief of the Army Staff and the top brass. But what was our provision: Rs. 1 crore.

This is the sympathy, this is the understanding and this is the love, affection and we show to them. So the Army found Rs. 5 crores to give them orthopaedic legs, to give them artificial limbs.

The case of ex-servicemen, which was quoted by Maj. Gen. Khanduri, till now three of the most important recommendations have not *seen the light of the day*. One rank one pension, a second career because they retire or are released at the age of 33, when they still have 30 years or 28 years or 27 years of service left.

The country is losing they are not Rosing. They are disciplined, dedicated and the country pays for their training. They are disciplined but the nation is losing a dedicated, trained and disciplined man-power at a time when it requires.

Today, the number of ex-servicemen is

probably about 35 lakhs and we have yet to do something because we keep on passing the buck. The Centre thinks, it is a problem of the State and the State thinks it is a problem of the Centre. Ultimately they are nobody's baby.

Some of our retiring and serving Generals have also commented on this. This is the 'United Services Institute Journal' of which the President is the Supreme Commander is the chief Patron. This is an Issue of which Shri R. Venkataraman, our former President and former Raksha Mantri, who was my Minister, was the Chief Patron. In this, there is an article that Armed Forces need to avoid promotional battles in the Court by Maj. Gen. (Retd.) V. K. Madhok, who was the Additional Director-General of the Territorial Army. A fine soldier, very professional, but somehow, he had to go as a Major-General.

I quote from it:

"However, it needs to be noted with great concern that nothing can be more disturbing to a soldier than to lose faith in the Systems."

The system, whether it is promotional, whether it is reward or whether it is punishment.

"because these are the motivational factors, besides idealism which impel him to sacrifice his life, if necessary and certainly not the pay packet."

A soldier does not lay down his life for a pay-packet. He does it because of idealism and the way to raise this morale, the way to get him to do super-human effort, whether it was Abdul Hamid, whether it was Col. Tarapore, whether it was Hoshiar Singh or whether it was Maj. Somnath Sharma in Kashmir is morale and discipline.

"What makes you do superhuman

efforts ? Morale ?... And an increasing number of promotion battles in the courts and dirty linen washed there helps just to do that."

Only yesterday hon. Rajya Raksha Mantri, was replying to an Unstarred Question by Dr. Sanjay Singh or somebody I think, in the Rajya Sabha, and he said that more than 800 cases of promotion and court martials are lying in courts.

I have a small cutting from the *Times of India* of the 22nd July, which says, "Ailing Army Official forced to attend Court Martial". And there are a series of these things coming out in the papers. Now, it is a fact that whether it is promotion, whether it is court martial, whether it is discipline, more and more people are depending on the law courts or are trying to get the intervention of the law courts. This is not a very healthy thing.

I agree with the hon. Rajya Raksha Mantri, When I was talking to him about 15 minutes back, he said, "How can you have law courts interfering with us? How can you move an amendment saying that there should be judicial review ?" I will come to it later. That is exactly the reason why I want a judicial review.

Coming to the service conditions, Major General Bhuwan Chandra Khanduri, had raised it also, have given rise to a phenomenon which today's *Pioneer* carries a news item, that there are 9,000 officers short in the Army, 2,000 officers short in the Navy, 600 officers short in the Air Force and people are taking voluntary retirement. I would like to be proved wrong. Because, for the last 20 years we have not had a full scale war and with the geo-political and geo-strategic events offering in our border areas, God forbid that there is a war, what would be the consequences? So, I would request the hon. Minister to take us into confidence whether there is a shortfall or what are the concrete and comprehen-

sive steps that are being taken to meet the situation, whether there is a shortfall in the officer cadre ? Because it is the Junior Officers, especially the paper mentions the rank of Captain.

It has also mentioned the cadre review. In fact, the hon. Minister was mentioning during his opening statement that as a result of the cadre review of 1979 and 1983 a lot of importance has been given to officers.

First a full Colonel used to command a Brigade. That was about 50 to 80 years back. Now a full Colonel is commanding a Battalion. Where a full Colonel was commanding 3000 troops or more, today he is commanding only 850 forces. This is the improvement sought by cadre review. There is a bulge in the middle. That is why people are leaving and enough people are not coming to fill up. Even at the Officers Training Academy in Madras only one course somehow gets fully subscribed. The second one had to be discontinued or is about to be discontinued for lack of people responding to it. So, we shall have to think about it, whether the present system of intake, and the condition of service are proper for today's environment or do we have to go in for national service ? Because now a time will come when we require young people to give us leadership.

India is a youthful nation; 24 crore is the number of our people below the age of 30. I think it is the youngest nation in the world. I think somebody has written in some book, we are also the grayest nation in the world. We have the largest number of people above the age of 60 and the largest number of people below 30, in the whole world. That is the paradox.

Now, I would like to come to the Bill proper. It is very laudable that the hon. Minister in his Statement of Objects and Reasons has stated that the Army Act, 1950

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is sought to be amended for the first time, because no changes have taken place since 1950. From 22nd July 1950, the basic structure has remained like that. What is changed circumstances? He has not elaborated that. The Statement of Objects and Reasons says:

"The Army Act 1950 is proposed to be amended with a view to remove certain archaic and obsolete provisions."

He says, one is Field Punishment. I have some reservations on this. I beg to differ with Maj. General Khanduri on this. What is Field Punishment? I would like to quote section 75 of the Army Act 1940. It says:

"Field Punishment: Where any person subject to this Act and under the rank of Warrant Officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment. Field Punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging."

What is 'active service'? Again I quote Section 3 of the Army Act. It says:

"Active service as applied to such a person subject to this Act means the time during which such person

(a) is attached to or forms part of a force, which is engaged in operations against an enemy; or

(b) is engaged in military operations or is on the line of march to

a country or a place wholly or partially occupied by an enemy; or

(c) is attached to or forms part of a force which is in military occupation of a foreign country."

It is only in active service that field punishment can be awarded. It cannot be awarded here in Delhi. It cannot be awarded in Calcutta. It can only be awarded if the three conditions given in Section 3 to the Army Act are fulfilled.

What are the types of field punishment? I quote Section 172 of the Army Rules 1954. It says:

"Field Punishment - A court martial or an officer exercising authority under Section 80 of the Army Act may, for the purpose of awarding field punishment sentence an offender for a period not exceeding in the case of a court-martial, three months, and in the case of an officer exercising authority under Section 80, 28 days, to one of the following punishments, namely

(a) Field punishment No. 1 and (b) Field punishment No. 2."

What is Field Punishment No. 1? I would like to quote Section 173 of the Army Rules 1954... (*Interruptions*)

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF SCIENCE AND TECHNOLOGY (DEPARTMENT OF ELECTRONICS AND DEPARTMENT OF OCEAN DEVELOPMENT) (SHRI RANGARAJAN KUMARAMANGALAM): Mr. Deputy-Speaker, Sir, I request you to extend the sitting of the House upto 8 O' Clock because



we have quite a lot of business to transact. We discussed with most of the other party leaders on this. Literally we have got only one day and there are other Discussions under Rule 193, which are to be discussed. Therefore, I request you, Sir, to extend the sitting of the House upto 8 O' Clock.

MR. DEPUTY-SPEAKER: I hope the House would agree with the hon. Minister.

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY-SPEAKER: So, the sitting of the House is extended upto 8 O' Clock.

SHRI K.P. SINGH DEO, you can continue now.

SHRI K. P. SINGH DEO: Now, I come to Section 173 of Army Rules, 1954 Field Punishment No. 1. I quote:

"Where an offender is sentenced to Field punishment No. 1, he may during the continuance of his sentence, unless the court-martial or the officer exercising authority under Section 80, as the case may be, otherwise, directs, be punished as follows. That is to say:-

- (a) he may be kept in irons, that is to say in fetters or handcuffs, or both fetters and handcuffs and may be secured so as to prevent his escape;
- (b) when in irons, he may be attached for a period or periods not exceeding 2 hours in any one day to a fixed object, but he must not be so attached during more than three out of any four consecutive days, nor during more than 21 days in all."

That is in all, three months and 21 days. When is it used? I mean to say it is used when this army is on the march, when it is fighting a war, when it is engaged against an enemy, when it is in a foreign country/territory. So, it is not as simple as if it was happening in Delhi, in the Delhi Cantonment or Anand Parbat which is now sought to be sold in spite of the fact that Shri Anna Joshi, in the last Session, asked a question that in three years the Defence Ministry has acquired 31000 acres of land. Even to pointed question, the hon. Minister did not reply how much money the Defence Ministry paid. We remember the Rajasthan Government when it was giving land at the KK Ranges made the Government of India pay through its nose and the entire deficit was paid by the Ministry of Defence. I do not know whether 31000 acres is more than 70 times of that 400 acres. So, in spite of the discussions here, some bureaucrats, some 'babu', some desk officer-whom Maj. Gen. Bhuwan Chandra Khanduri was mentioning-is playing around with puns and words. The Parliament has only said that cantonment land will not be sold. Based on the land use pattern, it will be offered to the Air Force and Navy first and then to the State Government, then to the public sector undertakings and then to private entrepreneurs. So, some smart alea who is a *babu* has said that since the Parliament has said only cantonment land, let us get back to the days when the Britishers were here. What was the area out of cantonment at that time? It was a very small cantonment. Anything is outside, is outside the purview of the Parliament. So, in this way, we are going to start another scham.

I am only cautioning the House, unless we are vigilant, some smart alac is going *usurp*.

I am sure you must have gone to Bombay. If you have seen Santa Cruz, the entire area which belong to AD Bridge has been

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occupied by jhuggi jhopris and it has already gone out of the hands of the Ministry of Defence. Same is the case of the land inside the National Defence Academy, Ahirl and Kopre, two villages inside the National Defence Academy Khadakvasla. We have not been able to get rid of them even after 45 years. Same is the case in Colaba next to Naval Intelligence Office. The armed forces headquarters have been beating their heads but no one has come to their aid.

So, we have to be very alert before we make any changes. I do concede that this field punishment has not been used either by the Britishers or by us. But, it is a deterrent. I leave it to the wisdom of the hon. Minister. Since Maj. Gen. Khanduri has already said that he does not mind it being deleted, I would not like to have a quarrel. The hon. Minister was at pains to explain that it is so out of discipline and flexibility and modernising and the modern, incongruous with jurisprudence. So, I would like to come to a point which is incongruous to jurisprudence and which is archaic and not modern and that is the amendment which I have moved on Special Court of Review of the Court-martial proceedings other than summary court trial martial. I had brought a Bill - Special Courts Appeal for Defence Services Personnel Bill, 1981 - on 21 August, 1981.

18.00 hrs.

I have only incorporated some of the provisions here because this is an Army (Amendment) Bill and the Navy and Air Force Act cannot be incorporated. I have deliberately brought it under section 127, although my Bill of 1981 was an amendment to section 164 of the Army Act. Because the Government has brought an amendment to section 127, it is to draw the attention of the Government as well as the House and to provoke a thinking in this matter. This is not

only a pet subject with me, Maj. Gen. Khanduri, a very fine soldier, a distinguished soldier, also feels the same thing, Shri Shahabuddin also feels the same thing and Maj. Sudhir Sawant from Maharashtra, a distinguished soldier who held many important Staff appointments, also feel the same thing. Why do we feel it? The Objects and Reasons which I had enumerated on 23rd April, 1981, after doing considerable research for nine years from 1972 to 1981, before I brought this Bill which also got the sanction of the President, both financial and otherwise, were:

"At present there is no Court of Appeal to hear the aggrieved persons of the Defence Services after the Court Martial passes a verdict on them. In recent years, many Defence personnel have been taking recourse to law courts after summary disposal of their case by the Court Martial, thereby indicating that the present procedures have not been able to meet the ends of justice. The Judge Advocate General's establishment and its branches at various levels are not functioning independently of the executive authority, right from the Staff Captain (Legal) in a small formation till the Chief of the Army Staff. It is advised and guided by the same department."

I would like to pose a question that which department is going to run down its own officers instead of defending them. We have seen what has happened in the Security Scam where Rs. 4,500 crores are involved. Everyone started covering up for everyone. Therefore, this Judge Advocate General's branch cannot be independent. It has to function under certain constraints and I will tell you what the constraints are.

I go on:

"There is no adequate provision for

independent scrutiny of the findings of the Judge Advocate General against the aggrieved person. It is paradoxical that the same executive from whom the Judge Advocate General derives his authority is also empowered to review and confirm the findings of the Judge Advocate General. There should, therefore, be a provision for preferring appeals to a Special Court of Appeal, independent of Defence Services Authority, against the findings and sentences of the Court Martial. Such Courts - this is the operative word exist in the United States of America, the erstwhile U. S. S. R., United Kingdom, where the old Bailey appoints, France, where the Chamber of Deputies elect, and other countries, and they function independently, free from executive control."

This is on 23rd of April, 1981. Thereafter, when the former President Shri Venkataraman was the Raksha Mantri, on principle it was agreed that there shall be a Special Court of Appeal. But because at that time Gen. Krishna Rao was leaving and Gen. Vaidya was coming on, it was stayed so that the new Chief of Army Staff was not saddled with something his predecessor had done. It is now about nine years. So, I would request the hon. Raksha Rajya Mantri to kindly go back to the Ministry and read through the pages. He will find that the Armed Forces had agreed, the bureaucracy had agreed, the political leadership of the country had agreed to have the Special Court of Appeal. For his information I may mention that Lt. Gen. M. L. Thapar, former Vice-Chief of the Army, chaired a Seminar and a Workshop in the United Services Institute where the President of India is the Chief Patron and where all the three Chiefs are the Patrons.

It was also decided in that seminar and the workshop does recommend that there

should be a Special Court of Appeal, judicial review independent of military authorities.

Now what is the amendment? The amendment is that any person subject to this Bill, who is awarded a sentence by a Court Martial, except a summary Court Martial, may prefer an appeal against the sentence to the Special Court of Appeal constituted for the purpose. As I said, it should have come under Section 164. But since the Government is not bringing an amendment to Section 164, if I had brought an amendment to Section 164, the Lok Sabha Secretariat would have cut it down. So I was compelled to bring it through Section 127, because we are trying to delete it, just to highlight and to bring it to the House. It does not come under Section 127. I know the fate of my amendment. The hon. Minister will not agree because he has a brief to follow also.

I continue to quote:

- "(b) There shall be constituted a Special Court of Appeal; for defence services personnel which shall consist of three judges of the rank not less than that of a High Court judge having knowledge of military law.
3. The judges to the Special Court of Appeal shall be nominated by the President of India in consultation with the Chief Justice of the Supreme Court.
  4. The procedures obtaining in High Courts for the hearing and disposal of appeals against the sentences of the lower courts shall be followed in the Special Court of Appeal which shall also consider the facts of the case.

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5. The judgements of the Special Court of Appeal shall be final and no appeal shall lie to any other authority over the judgements of the Special Court of Appeal.
6. The Special Court of Appeal shall decide each appeal preferred to it within a period not exceeding 90 days.
7. The headquarters of the Special Court of Appeal shall be in New Delhi or at such other place as may be decided by the Central Government in consultation with the Supreme Court".

Sir, I would like to conclude by just quoting Gen. Mangla because it was on the discipline aspect which the hon. Minister was mentioning and this is with particular reference to field punishment.

Gen. Mangla, who is the Judge Advocate General of the Army, on 22nd July, said: "Speedy, fair and inexpensive justice..." — this is the motto of the Department of Judge Advocate General, the legal experts of the Indian Army, the lesser known organ of the Army which celebrates its 99th raising day today - should be a source of envy to the civil judiciary considering that on an average it takes only a few weeks to sort out cases - not dispose of but sort out - and the maximum time limit is three years. Therefore, we have 800 people who have gone to the courts now. Amongst them, as Gen. Khanduri mentioned, there are Admirals, Lieutenant Generals, Air Marshals who are also fighting the battle in the courts.

Sir, I quote further:

"The knowledge of military law, the branch that governs only those employed in the Army the reasons for the Army who have the special set up is dictated by the paramount need to maintain strict discipline in this large force entrusted with the task to protect nation's border against external aggression".

The operative word comes now, I quote:

"For instance, while in civil life absence from leave is treated as a minor offence, such an incident in the army is treated as a major offence which necessitates severe punishment since it could well result in the battle being lost".

It does not mention, if you remember, the picture of Paton. Gen. Paton slaps a young private because he ran away from the battle. While the battle is raging, do you have time to have five or three officers of the rank of Major or Lieutenant Colonel, who should be fighting, sitting on a Court Martial to dispose of cases or would you like to use field punishment for that when the Army is on the march ? I leave it to you to ponder over.

Soldiers are required to be brave, obedient if the borders are to be guarded effectively and a separate Army law ensures that.

Therefore, with these remarks - I do not have a choice, I have to - I support the Bill although my conscience says it could have been a comprehensive Bill. I do hope the Raksha Rajya Mantri will take it up with his Raksha Mantri as well as with the senior officers and some of the people who have served in the Indian Army and some of the retiring officers and come back to this Parliament with this Bill to have a Special Court of Appeal which would be in consonance with

modern thinking, with natural justice and which would not be archaic and incongruous. Thank you.

SHRI HANNAN MOLLAH (Uluberia):  
 Mr. Deputy-Speaker, Sir, after a long time this Bill has been brought and it is in fact long overdue. The hon. Minister stated that after 1911, the Army Act made by the British was amended in 1950. After four decades now the Government has come to amend certain clauses of the Act. The philosophy of the British Army was to create mercenaries. mercenaries. That philosophy has not changed. With some cosmetic changes you cannot change that philosophy. That philosophy is still continuing and now after four decades the Minister has now come with some amendment for changing some of those obsolete, obnoxious and obscene articles which we are continuing in the Statute Book for so many years. This is a sleeping Government. After four decades they came out of the slumber and now they are just trying to amend it. Okay, we support this amendment better late than never. Some amendment is there, it is good. But it needs a comprehensive amendment and I agree with two of my earlier colleagues that there are lots of amendments which are necessary. One of the major things is that the Army people are treated in a bad manner and even the court repeatedly warned the Government to change that attitude. I will just quote from the judgment of the Supreme Court regarding the court martial because the court martial is not a fool-proof system, it has many flaws. While the discipline in the Army is to be maintained, justice should not be moulded by any means. Even the Supreme Court time and again criticised various flaws in the system and advised the Government to bring about radical reforms in the system to bring it in tune with the changing times. I quote from the Supreme Court Judgment in 1982 as follows:

"Ours is still an antiquated system,

The wind of change blowing over the country has not permeated the close and sacrosanct precincts of the Army.....would like to draw the pointed attention of the Government to the glaring anomaly that Courts Martial do not even write a brief reasoned order in support of their conclusion, even in cases in which they impose death sentence. This must be remedied in order to ensure that a disciplined and dedicated Indian Army may not nurse a grievance that the substance of justice and fairplay is denied to them."

Again, in another Judgment the Supreme Court said:

"Absence of even one appeal with power to review evidence, legal formulations, conclusion and adequacy or otherwise of punishment, it is a glaring lacuna in a country where a counterpart civilian can prefer appeal after appeal to hierarchy of courts."

Sir, in our judicial system, you know, the Supreme Court and the High Courts are excluded from appellate jurisdiction under Articles 136 (2) and 227 (4) of the Constitution. Only they can hear the problems of the Army people under Articles 32 and 226 of the Constitution. So, these obsolete things are still continuing with only minor cosmetic changes and amendments.

Sir, those who do not defend the sovereignty and Independence of the country, how can they understand the feelings of those who are making their sacrifices on the borders to defend our freedom?

Sir, there are a lot of problems. Gen. Khanduri had already mentioned about the non-military use of our Army. There is a wide range of dissatisfaction. The charter of duty of the Army says:

[Sh. Hannan Mollah]

"To assist the Government when called for, to give such assistance in order to enable it to carry out its function peacefully."

The Army always comes to the rescue of flood victims, earthquake victims and other natural calamity victims. But, they are occasionally used for maintaining internal peace and they are given the duties of police. The police and the para-military forces should be properly organised and utilised for this purpose. But the Army is called again and again and because of that the Army people are dissatisfied. The Army is to kill the enemies and not to kill our own countrymen. That anomaly is going on, but the Government is oblivion to their grievance. The Army people are called to assist the civil administration very often and the civilians also know that if the Army comes and fires, there will be no inquiry and they will just pass the buck on the others. This aspect should be looked into properly so that our Army is not widely misused for non-military purposes.

Then, there are a lot of problems regarding recruitment and training. There is a lot of corruption also. I would like to draw the attention of the hon. Minister to the report of the C&AG in May, which indicted the Army for corruption in its recruitment system, for neglecting the training of recruits at the centres. It has been reprimanded for malpractices such as accepting bribes, leak of questions papers and tampering of answer sheets. About 48 discipliner cases were initiated for such malpractices from 19-6-87 to 1990-91. As the Recruiting Officers and Medical officers are from the Services, it is very alarming and the nexus between officials and touts is widely talked about. In training also, there are reports of delay from one to 19 weeks after the arrival of the recruits at the centre.

Sir, you will be surprised to know that in 11 training centres, only 30.93 lakh training weeks are used against the total of 55.78 lakh weeks which are available. Only half of the time is utilised by these people and this way training is neglected by the Government. You will also be surprised to know that in many training centres, the military farming have begun to acquire higher priority over training of new recruits. In that situation, how can you expect a new recruit to become a good soldier, if such disturbing malpractices are allowed to continue?

Sir, the Estimates Committee also made some concrete suggestions to change the situation. It has already been mentioned here that there is no satisfactory grievance redressal mechanism in the Army. There are about 800 cases pending in various courts of law and the Army people are running to the Courts. It is not a very healthy sign. The Army people are not satisfied and they have doubts and that is why they are going to the Courts. A suggestion has already been made by Mr. Singh Deo that an Appellate Court should be set up and in that independent body, the aggrieved soldiers can go and get their redressals.

In the upper echelons of the Army, there are lack of better prospects. In the Army it takes about 16 to 17 years to become a Lieutenant Colonel, 19 to 25 years to become a Colonel, 28 years to become a Brigadier and 30 to 32 years to become a Major General. Due to lack of better prospects, bright young people are not attracted to Army. There is report that several thousands of officers are in shortage in all the three wings of Army. But in the Civil sector they can have better prospects in half of the time the army people require. As you have seen there are thousands of officers, in all the three Wings. But they are not finding better prospects. These things should also be properly looked into. During peace time,

they get some time to stay with the family. But most of the time, they do not get accommodation, with the result, they with the family. They cannot look after their children. They are not able to attend to the problems of education of their children and problems of the family. Their children are neglected and cannot live. These questions are also not properly looked into. The Government should take proper note of all these problems so that the dissatisfaction among the Services should be removed.

Finally I draw the attention of the Government regarding the problem of ex-servicemen and war widows. The members who have preceded me have also spoken about it in detail. I agree with Gen. Khanduri that one-rank-one pension was a cheat. The earlier Government has committed for it. After the minority Government came out of danger, it just betrayed those ex-servicemen. The Government has excluded a large number of people from the purview of one-rank-one pension scheme.

All these problems are there. The training and recruitment of ex-servicemen is not taken care of. The reservation meant for the ex-servicemen in services is not properly maintained in various States and in the Central Government Departments. So, there should be a monitoring machinery so that there is automatic replacement of the ex-servicemen in various services. Every year about 60,000 of ex-servicemen are coming out and now there is a total of 35 lakhs. They are running from pillar to post for services in the civilian sector. They come out of the Army after making great sacrifice and spending the prime part of their life for the defence of the country. But they are neglected. There should be a Joint Parliamentary Committee to look after and to oversee regular implementation of all those suggestions and the programmes and schemes meant for them. They should also see whether those things are implemented properly or not. Some

mechanism should be there so that the Army people do not feel neglected and they are encouraged to do their duty in a better way.

Though the amendment which has been brought forward by the Government is a good amendment many more need to be done. A comprehensive amendment is necessary. This sort of piece-meal amendment will not do. I will request the Minister to take note of this and come with a comprehensive amendment. The original Act was a mercenary Act brought by the British regime. With cosmetic changes, we are still continuing it. Therefore, a comprehensive Bill is required to be brought before the House. With these words, I conclude.

[Translation]

SHRI ANNA JOSHI (Pune): Mr. Deputy Speaker, Sir, while introducing the Bill in this House the hon. Minister in his speech has stated the need of the amendment. During the course of their speeches my colleagues have just now referred to a sentence that "these are cosmetic changes" and the hon. Minister has also used the same sentence in his speech. The hon. Minister and the higher officers of the Army have never paid their attention towards the need and difficulties of the Army personnel. It has never been thought as to what problems are being faced by them under the existing rules of the army. It appears to me while observing these provisions of this Bill.

Several Colleagues of mine who have spoken prior to me have mentioned some of the points. I also want to repeat it with great seriousness that about five thousand officers every year have to knock the doors of the courts to get justice. When the number of officers is in such a huge quantity then what will be the number of soldiers, it can be easily imagined. If such a large number of army officers and Jawans have to knock the doors of the court for getting justice etc. then, as

[Sh. Anna Joshi]

Major General Khanduri has rightly pointed out that. What is the use and reasonableness of awarding them gallantry awards like Paramvir Chakra, Vir Chakra etc. When they have to run to courts for getting justice. They have to spend their money, energy and and time during the course of getting justice from the courts, then what is the purpose of having the Army Act? Therefore, through you, I would like to request the hon. Minister that you should think over this problem. Even the old retired army officers have written books in this regard.

[English]

"Recently they published one book "Road to Corruption." I do not want to be on the road of corruption in military -Retd. Maj. Gen. Vermaji."

[Translation]

Retired maj. Gen. Vermaji has written a book. He has highlighted the prevailing corruption on each and every stage in the Army such as in training, recruitment posting and promotion etc. That is why they do not get their due rights and they have to knock the doors of the courts to get justice. I quote an example of all this. Recently one of our soldiers who had completed his tenure of four years in Kohima, was posted to Shillong where he was on active duty at Combat Front for two years, then he was posted to Pune and again he was being sent back for training purposes. This is the State of affairs there.

[English]

**"Four terms he should complete in Military Engineering College, Puna and four terms he has to complete at Mhow."**

[Translation]

He has completed seven terms and cleared the exams. When he was clearing his Eighth Term, his officer slapped him on his face. This is the medical report.

[English]

"95 per cent of his ear drum was damaged. He has to be hospitalised."

[Translation]

The concerned officer asked him not to make any complaint. He said that they would make a compromise themselves. Because the accused was the son-in-law of a Major General and he had to go on training for his promotion. To avoid any hindrance, the matter was not taken any notice and the accused officer left on promotion. Later on, an inquiry was conducted. He was asked to spell out as to what his complaint was.

[English]

The doctor's certificate was submitted.

[Translation]

You will be surprised to know that a decision was taken against him and his complaint was considered baseless. It was said that he made an uncalled for complaint against his officers, as such he should be awarded punishment.

[English]

That was the decision. That was the justice which was given to the young man who had fought for four years in Kohima and two years in Ceylon and who was to complete his training by only three months.



[Translation]

Mr. Deputy Speaker, Sir, he was awarded punishment and was withdrawn from that post. However, he succeeded in getting reinstatement to his post later on. What was his offence? But it happens in military. People are being frightened in the name of military discipline and military secrecy. Is it discipline? One cannot make appeal anywhere. If he meets an M.P. and makes a representation.

[English]

That is against their discipline.

[Translation]

They can't raise a voice. I told them, I am their representative. I must speak for them and.

[English]

This is the proper forum where I want to ventilate their grievances.

[Translation]

Where should they represent? Through you, I would like to tell the hon. Minister of Defence regarding the injustice being done in military. Where the victim should go for the ventilation of his grievances. There is no chance of ventilation of their grievances. In this regard, Major General Verma has said that every year 5000 army officers, starting from Captain to Major General, go to Courts for justice. It does not behave to the Ministry of Defence. Therefore, I would like to say that there must be some provision in the Army Act to deal with such injustices. As my hon. friends said just now that

[English]

Appealing authority which is different from Military.

[Translation]

If a high official of military is appointed there, he will do justice (Interruption). I am not talking of discipline. But you will agree that injustice is being done in the name of discipline. Does it behave that 5000 officers should go to courts? Otherwise, they are put behind bars and emergency is imposed.

Mr. Deputy Speaker, Sir, I would also like to say some thing about cantonment areas.

[English]

Shri Deo has raised that point again and again.

[Translation]

Regarding ranks, in the entire country

[English]

Some thousand cases are lying in the Court.

[Translation]

Because we can't submit old documents there. A new Act may be enacted for this. Today the condition of cantonment areas is very miserable. They wear the look of an old village. Some cantonments are running well. But the condition of remaining cantonments is not good for want of funds. The funds being given by the centre are not adequate even for paying the annual salary of servants. Even then, better facilities are available in some cantonments. What I mean to say that though there is no provision for expenditure, funds are being spent. That means funds are diverted from other heads and spent there. Otherwise, there is no alternative. If necessary provision is made in this Army Act after considering old grants afresh many facilities can be provided to their civil-

[Sh. Anna Joshi]

ian population and military personnel as well. We can provide them better civic amenities there. I want that the Government should make necessary provision to amend the Army Act after considering all these aspects. There is no need to discuss on the provisions already made by the Government. But they are not adequate. It has become very necessary to discuss them afresh. The hon. Minister Should bring forward a comprehensive Bill after including all these amendments in the next session of the House. With these words I thank you and conclude.

[English]

SHRI SUDHIR SAWANT (Rajapur): Sir, I rise to support the Bill. At long last, something is being done because in all these days in the armed forces we were waiting for something to be done as far as Army Act is concerned. The Parliament can address to one most important issue of the armed forces and that is the morale. In army, we call 'morale' as the single most battle winning factor because no soldier goes to lay down his life for the country out of force. He goes espousing some values, attachment with the land knowing fully well that he is the ultimate sentinel to guard the borders and the ultimate power which holds the country together, the ultimate authority which will ensure the integrity of this country. And that is why, over a period of 16 years in the armed forces, when I recollect the time, I witness gradual degradation of values. The virus has set in the monolith eating on its vitals and today what we see is a facade, a facade with that ceremonial glitter through which we tend to get carried away. This house is singularly responsible for this state of affairs because the armed forces have been treated as the holy cow not to be touched.

When we pose any question in Parlia-

ment, pat comes the answer that in the public interest, so and so cannot be divulged. When the same thing is available to the Pakistan Army, when the same thing is available in literature, in all the journals over the world, but this House is denied all the information which it wants to seek. So, I would urge that at this point of time in history when we are placed with divisive forces taking primacy of the polity and when the armed forces are the ultimate strength of this country which will help the country together, let us do something, let us do something radical to rectify the state of affairs. What has happened really is that we are dependent on the legacy inherited by the Indian Army. Now this Army Act was enacted by foreigners and it was called the Indian Army Act which was designed to serve only the Indian army and for the British army, the British soldier, the Act was different. For the Indian soldiers, the clauses were different. After Independence, we are continuing with the same clauses, same punishments, same procedure. We must grasp the situation and we must amend this Act radically. This sort of superfluous attempts do not even touch the periphery of the causes. We require radical changes and this radical change cannot be entrusted to only those who are in the Uniforms or to the bureaucracy but the House has to take on its shoulder the responsibility of initiating the radical changes. We see today's army as the legacy of the British because everything and in fact, the culture of the army smacks of British taste. The white saheb has gone only to be replaced by black saheb and that is all you see all around. I may be permitted to correct it as brown saheb. That is what we have witnessed. What is the situation in the army today? We have very brave soldiers and junior officers on whose shoulders, this army rests. There is a lot of service being paid to say what sacrifices the soldiers have made. But words can never contemplate or we can never imagine what sort of situation a soldier has to undergo. We have witnessed events when tonnes of ice

had fallen and our soldiers have been cut into pieces and we have joined the bodies in the funeral. A soldier does not see his family for years and that too which soldier? In army also, there are different soldiers. There is the infantry man. He is the man who serves on the borders of this country in places and in remote areas like Siachen who packs his entire kit on his back and walks for seven days to reach a post in the difficult terrains. And he stays in those circumstances in isolation for years, in subhuman conditions. I remember those days when we used to go and steal steel CGI sheets from somewhere so that we could cover our heads; I remember those days when parachutes which were dropped from the sky were packed with straw and utilised for accommodation. Their life survives not on food; nobody eats there in the high altitude; they survive on kerosene. A man lives on a kerosene jerry cans for nearly two nights, to reach the post so that he can maintain the post and that way people survive there. There are places where a man cannot go by foot. People have to go by helicopters; helicopters also take only one man at that altitude of 22,000 feet. There was never in the history of the world, ever a battle fought at the height of 18,000 or 20,000 or 22,000 feet. Only India and Pakistan can manage such a record.

All this is happening. Why does it happen? I am talking about the Siachen. How that Siachen imbroglio had ever occurred? Have you studied that and who is responsible for that? We are fighting for that piece of land which has no strategic value at all.

So, these are the circumstances in which the army is there and what is happening in this army today? There are 70,000 batmen, working orderlies. If you go to the Delhi cantonment now, you will find soldiers doing what? They are not in training, not preparing for war; the soldiers are looking after the children of their officers. You go to any General's house and there are nearly five to

ten soldiers working as what? They are working there as menial servants. And these people are working in such soft appointments which is unauthorised, illegal. But, they are there; 70,000 men; mind you! They are doing the jobs of batmen. Are they fit to fight? I consider it as my right to have someone serving me. There are another fifty thousand people working in Officers' Mess. In that mess only one or two officers are dining. This is the state of affairs.

The British brought out one theory. They could not communicate with soldiers. That is why they instituted one rank called Junior Commissioned Officers rank, so that they could interact with soldiers. Nowhere in the world in any Army is there the grade of Junior Commissioned Officers except in Pakistan and Indian Army. What these JCOs are supposed to do? They are above 40 years of age. He is supposed to lead a platoon in battle where the average age of a soldier is 25 years, where the man required is young. But since the JCO has come to us from the British, we have instituted this. This is again the colonial legacy. So these are the issues to which we must address ourselves.

What about corruption? An infantry soldier in the pickets is waiting for food, waiting for those amenities which a normal human being is entitled to. But what happens is that the operational works fund goes from the Army HQs. First 50 per cent is consumed in the Command HQs. That is for travelling towards pickets in Kashmir at places like Jammu and Udhampur. Then at the Corps HQs, the amount is consumed. Then at the Divisional HQs. This money is meant for the pickets, for those soldiers who ultimately do not get anything. I will tell you, I myself have stolen CGI sheets to cover our heads. This is the state of affairs in the Armed Forces today. We must take stock of the situation.

A block of mutton is injected with water to increase the weight and that is what we

[Sh. Suhir Sawant]

eat. The Military Engineering Service is the most corrupt organisation that I have seen. I have had the misfortune to deal with it. What are you going to do with all these things? We must act once, take action to rectify the situation.

What about the situation in which the Armed Forces have to serve today? What about the officer cadre? Values have gone down. Why? Because the quality of leadership has crumbled drastically. What is the reason why the quality of leadership has gone down? Even Gen. Sundarji called most of the Generals in the Army are amiable frauds. Gen. Sundarji as Chief of the Army Staff has made this statement. But when he was the Chief, what did he do? He has made this statement.

What about their promotions? An Army Officer today is dreadfully scared to do anything except do what the boss wants. The reason is that if there is one remark in his confidential report he is doomed for life, whatever may have been his performance from his days of Second Lieutenant. In battle he is doomed. I have seen outstanding officers serving in Siachen. Last time I had raised this point. Just because of one year's confidential reports they could not be promoted. I took up that case last time. Officers in soft appointments who are staying in Delhi are promoted. But those people who are fighting on the borders do not get their promotion. Why? Because they could not manage to please their senior officers. This is the general trend in the Army and that is why the leadership quality has gone down, the value system has crumbled and that is the plight of the soldiers today.

When a young officer comes to the Army he comes with all the hopes and aspirations, with the intention of sacrificing his life for the country. But soon, within two to

five years he becomes a part of the system. The system engulfs him and later on he cannot retrieve himself from that. What is the comparative merit in promotion? They talk of comparative merit. Who is to decide this comparative merit? Does a man who has decorated in the battle field, who has fought on the borders in places like Siachen, not have any weightage? So this comparative merit system of promotion must be decided and operational merit must be given primacy while deciding the promotion. There must be an independent chain of authority which will determine the capability of officers who are to be promoted or not to be promoted. This is a very serious one and must be addressed immediately.

There is no grievance redressal system in the army. They say that you can complain. But, how to do that? I have been a victim of this at one point of time. You have to complain against your commanding officer. You have to complain to him only. You have to complain to that person against whom you want to complain. Then the chain goes on and the system rotates itself; and these complaints are of no value. There must be an independent body to look after the complaints of soldiers, the complaints of officers who are different than those in the command structure.

I have tried to present some of the issues which were before me and I put them from my past experience.

As far as the Army Act is concerned, there is a superfluous amendment which has been brought forward. Here most of the points have been covered by Shri K. P. Singh Deo and others. There are only two points which I want to make.

The Army Act is a draconian one in concept. If I go clause by clause, I can explain it. I have already spoken about the summary court marshal. There, the soldier

has no chance, the man is brought before the commanding officer. He is the judge and he is the commanding officer. That commanding officer has got an authority of sending that person - if he is absent for one day without leave - to one year rigorous imprisonment. There are many such clauses. I can understand if the Army Act is brought in to look after those offences and those issues which are exclusive for the Armed Forces. Is it exclusive to the Armed Forces? We have got the Indian Penal Code and we have to think on these lines. Can we give the draconian powers to the commanding officer? The punishment of being thrown out of the army itself is serious-enough. But, we are punishing him by throwing him out of the army and then sending him to the prison also. This is what it states. Mind you, when a man goes to the battle, he is not going to fight out of force. Army Act is not going to make him fight. It is his sense of duty, it is his sense of pride, it is his self-discipline which is more important than a discipline which is imposed. Hence, we must concentrate and try to develop an atmosphere of self-discipline which is of paramount importance.

There are two sections — section 45 and section 63. Section 45 deals with 'unbecoming conduct'. Unbecoming conduct has already been brought out in the ITBP Bill. Unbecoming conduct is going to be decided by whom? It depends on the interpretation. Sometimes, not standing properly may be an unbecoming conduct and for that he will be punished for one year imprisonment, summarily without any hearing. I will give you an example. If you fail to see off your senior officer or if you fail to salute unknowingly, even then, you can be sent to jail.

Section 63 deals with 'good order and military discipline'. Who is going to decide as to what is good order and military discipline? Again it is arbitrary interpretation of the commanding officer or the superior officer. So, we must not, in any Act which we may

make, leave scope for arbitrariness. It is anti-thesis to the rule of law and that is why such provisions which are anti-thetic to the rule of law, which are coercive, which are obnoxious must be removed and must be strikened immediately; and only those which specify the specific offences must be retained in this Act. Otherwise, the falling down of values, the crumbling values will continue and the degradation will also continue.

As regards the court of appeal, I have also given an amendment to the effect that there will be a court of appeal, an independent court of appeal. This independent special court of appeal may be a special court of appeal to all our armed forces, all forces in arms, including the ITBP, including the CRPF, including the BSF, including the Army, Air force and Navy. For all of these, there can be independent court. Over 5,000 officers per year going to court is a shame on this nation, on this House and this cannot be tolerated. Hence, I would recommend and request to the hon. Minister to consider these issues very seriously and to go into the complete gamut of the defence forces' morale, to go into every aspect. For that, constitute a committee from this Parliament which can go into the details, and recommend measures to bring the Army back to life to halt the degradation, to arrest the degradation so that armed forces would be willing and prepared to do the duty which has been entrusted to them by this nation, by this Constitution.

SHRI S.S.R. RAJENDRA KUMAR (Chengalpattu): Mr. Deputy speaker, Sir, I thank you very much for providing me an opportunity to participate in the discussion on the Army (Amendment) Bill on behalf of AIADMK.

I am elated at this measure, though it is a belated one. This Bill would go down in the history of democratic India so far as the country is taken to the level of several civil-

[Sh. S.S.R. Rajendrakumar]

lised nations in the world who have already abolished barbaric punishments for Army men. I welcome the Bill and support its provisions seeking scrapping of archaic penal procedures.

Our nation today is facing dangers within and outside. Our defence preparedness squarely depends upon the morale of the defence personnel. Every man in the front line will count for the victory or defeat of the nation in any action. Therefore, the importance and attention should shift to the lowest rungs of the defence personal who battle in element weather, adverse conditions, a cut-off family life and still put up bravely to sacrifice at the altar for the cause of the nation. Nobody on earth can deny their due.

However, of late, the internal security of the country has not been safe. Infiltration of militants continued unchecked. The LTTE militants were running their *darbar* in Tamil Nadu under the infamous DMK regime. Rival militant group leader Padmanabha was done to death in broad daylight and the DMK Government could not effectively act. This continued until a former Prime Minister of this country fell to the militant's barbaric attack.

The people of Tamil Nadu ultimately chose Puratchi Thalaivi Jayalalitha to wage a war against the LTTE militants. Today under the dynamic leadership of Puratchi Thalaivi, LTTE activities in Tamil Nadu have been effectively curbed. Now the infiltration of the LTTE into Tamil Nadu is to be checked for which the Central Government should grant special aid to Tamil Nadu for modernising their police forces and also should execute the Sethu Samudram Project as a defence project on top priority basis.

I must also mention that there is growing disenchantment among the defence per-

sonnel about the treatment meted out to them at the hands of their seniors. Several of them have voluntarily resigned, and voluntary resignations are pouring in. What does this indicate? This indicates the dangerous trend that a citizen of India is not voluntarily interested in safeguarding the territorial integrity of the nation. Using statutory provisions, he is inclined to abdicate that responsibility. If this is the attitude, then our defence system may crumble one day. I am not cynical but I would like to be pragmatic. I doubt that there are moles in our defence forces who are out to destroy the defence of the country from within. Several steps have to be initiated and I would like to make a few suggestions:

Deployment of army to quell civil disturbances should not be often resorted to. The minimum age for recruitment to army should be lowered to 16 years who should be straight from special army schools. They should be given a chance for JCOs alongwith direct recruitment quota. For officers of defence personnel, the voluntary retirement age should be raised so that no one retires from the defence forces before 45 years.

19.00 hrs.

Women should be recruited in the Army and Air Force as women are recruited in the Navy in Education and Logistics Wings. The quota for ex-servicemen in the Government and Public Sector organisations should be increased so that ex-servicemen could diversify, after retirement, into nation-building activities. They should also be given pay protection. The pursuit of commercial occupations by retired senior defence personnel should be banned by legislation.

19.01 hrs.

(Shri Peter G. Marbaniang *in the Chair*)

This would avoid espionage cases. A

code of conduct should be evolved for discontinuing the practice of appointing retired army officers as Governors and at senior executive positions. They can, however, participate in politics only after five years of their retirement since they can contribute to the good governance of the country as well.

The confidential report writing system in the defence forces should be scrapped. All evaluation of the performance of a member of defence personnel must be adjudged by objectively standardised tests administered by computers. There are several cases of confidential reporting on juniors with malice have come to light leading to frustration and voluntary resignations. This can be avoided if you scrap the confidential reporting system. Through this, you can also check the vested interests and honesty and truth will come to prevail in the work place.

At the time of promotion, to ensure only men of integrity are promoted, a special lie-detection test should be administered on such men and those who qualify should be promoted. And to ensure only men of integrity continue in service, all complaints which are of specific nature against an individual must be inquired into by a multi-member team of the defence personnel which should only be an ad-hoc body. As per its report, action should be taken with appeal provisions for the affected individual.

MR. CHAIRMAN: Are you reading your speech? You have to get permission for reading your speech.

SHRIS.S.R. RAJENDRAKUMAR: I am concluding, Sir.

Sir, according to the latest information, it was told that a 15 members team of the Liberation Tigers of Tamil Eelam equipped with lethal weapons has been despatched from Jaffna with a last ditch effect to secure release of the 26 accused basic trials in Rajiv

Gandhi's assassination case. The Defence Ministry has to act accordingly and, keeping all these in mind, it should give a helping hand to the State Government immediately to ease the situation. I request the hon. Minister to consider these points. With the hope, that the hon. Minister would give me a reply, I support this measure.

SHRI YAIMA SINGH YUMNAM (Inner Manipur): Mr. Chairman, Sir, I rise to support the Bill to amend the Army Act. I would like to say that I am proud of our Indian army and the performances of our army in the past battles fought against our opponents and for being sincere in their responsibilities performing the international assignments. We have learnt that so many important assignments were given to the Indian army to negotiate in very important and very crucial international affairs.

Sir, we know that a battle is not won only by the numerical strength of the army or by the sophisticated weapons used by them. It is also necessary that the spirit and morale of our Armed Forces must be very high. They must have patriotism in their hearts and they must be willing to fight for a cause. When they are prepared to sacrifice what all they have, then only they can fight the enemy and save their country. While supporting the Bill, I would like to propose to the Government that in our training institutes for armed forces personnel, we should see that they receive proper lessons to imbibe this sort of spirit and high morale, so that they can sacrifice everything for the sake of their country and for the sake of peace.

I praise our army. But that does not mean that ours is the first and foremost in the world. In terms of weapons etc., we may be lagging behind countries like USA and other big powers. But I do feel that we are second to none as far as the spirit of our Armed Forces is concerned.

I rise to speak primarily on the Bill to bring before this House certain circumstances under which the Armed Forces might have committed some offences for which they are liable for punishment. In the statement of objects and reasons, it is mentioned that this Army Act, 1950 is to be amended because certain parts of the Act have become obsolete, outdated and very ancient. I do agree with this view. After four decades, some provisions might have become obsolete. In the changed context of the world, I do find that some of the provisions are outdated. While agreeing with the provisions contained in the Amending Bill, I would like to propose one amendment. This amendment is in respect of awarding punishment to guilty personnel of the Army. I propose that those who commit the heinous crime of rape and deflowering of innocent women and girls should be awarded death sentence. We must not be satisfied only with the punishments like life imprisonment or anything of that sort. For committing such offences, death sentence should be awarded. I am proposing for this punishment because offences of such nature are on an increase, especially in the North-Eastern areas and particularly in Manipur.

The Armed Forces (Special Powers) Act was enforced in Manipur. The Army personnel, in the name of combing operation, what they did was that they let all the male members of the family to go and then they raped the girls. I cannot explain in the House because I feel ashamed but I think the hon. Members can imagine the atrocities committed by the Armed Forces personnel on the poor girls. I would here like to tell you one incident which happened in the Ukhrul district of Manipur. A girl named Miss Rose was deflowered by a Captain-by the Lieutenant - of the Army. All the male members of the family were allowed to go and then he raped the girl. As you know for a girl, chastity

is of prime importance. They think that if the chastity is lost the life is lost. So, Miss Rose committed suicide\* she wrote a letter to her sweet heart saying "I wanted to marry you but I am spoiled by such and such Captain and Lieutenant. My chastity is lost and so I am committing suicide." Can you imagine this?

This incident happened when I was a Cabinet Minister in the then Manipur Government. We tried our best and brought it to the notice of the authorities but we could not punish those officers. This incident provoked the youths and they started agitating. They formed an organisation to take revenge against the armed forces. This situation is still lingering on. For such offences, we must have provision for awarding death penalty as is being in countries like UAE, etc. In these countries, it is published in the papers that for raping girls before their parents or grand parents, the guilty persons were awarded death sentence. So, we must also have such provision. Those hon. Members who are not agreeable for giving such penalties may also be agreeable, if they come to our place. Minor penalties like imprisonment or dismissal won't do.

As far as practicable, the armed forces must be kept out of politics. Politics should be left to the politicians only.

Lastly, I am agreeable to some proposals made in this House for setting up a Special Court for making it as an appellate court for those guilty persons of the armed forces.

I join all the hon. Members in saying that our armed forces must be made second to none in the world.

SHRI BHOGENDRAJHA (Madhubani):  
Mr. Chairman, Sir, it is among the rarest Bills introduced by the Government and so it is fit to be supported.



The Bill in 1950 came into existence in the conditions when we had achieved our freedom by compromising with the British imperialists and ironically, the Commander-in-Chief Mr. Auchin Lache was also the last Commoander-in-Chief of British India. The first Governor General of free India, Lord Mountbatton, was also the last Governor General of British India. In such a situation, that Bill came into existence. During the British days, even the former Bill was framed under the conditions of the First War of Independence in 1857. It was initiated and led by the men in uniforms. That is why, the Britishers had incorporated many penal and many inhuman provisions in that Bill. In that sense, this is a step in the right direction. I cannot say it satisfactory but I can say that it is a step definitely in the right direction.

Sir, I was in the Joint Select Committee when the present Code of Criminal Procedure was considered and enacted. It is also good that the present Bill with regard to the Army discipline takes us in that direction in consonance with the spirit and provisions of the present Code of Criminal Procedure.

Now, I would like to emphasise one thing. Arms do matter, Men do matter, but not less materials. You see the heart and mind behind the arm and heart and mind within the man. Sir, I would like to emphasise something with regard to the present conditions prevailing in our country, You see, our country is a multi-lingual, multi-religious and multi-cultural and yet one nation.

In that way it incorporates most of the things that the world together can have. In such a situation, what I would like to emphasise is the training, I mean the understanding, the ideological training, not the party training, but the political training, the political training minus the party training. Some people do misunderstand politics in that way. Patriotic, secular, democratic and in the words of our Constitution, socialist training, the under-

standing that they have to guard our frontiers, our freedom; and at the same time, in times of emergency, even if you do not like, we should not like, we should not prefer, but even then, we cannot avoid, in all circumstances, in such a situation, even now the country feels that when there is a turmoil of the communal type or some othertype, even then the armed forces are the most dependable secular and almost neutral factor in that condition. But much more better efforts have to be made for the days that are ahead.

I would like to say that in the present day world when we have joined naval exercises with the USA imperialists, which have imperialist designs, even though many of us can whisk it away, but that is a reality. Even today Iraq is being threatened; and if it is so, the world's democratics voice can be raised; but, militarily, it will be difficult for the world today to resist them, USA imperialists. In such a situation, our armed forces have to be protected against the ideological, political over hands and even under hands penetration and influence by the USA imperialists who will like to undermine the morale of our armed forces.

Similarly, from across the borders, day-in-and day-out, there is a communal propaganda that has to be guarded against by our armed forces; at the same time, they are not to be provoked. I might have heard on several occasions the radio Pakistan when they pray to *allah*. They say that Mujahideen of Afghanistan, Mujahideen of Kashmir and Mujahideen of Palistinians should visit India. I am talking of this very week. So, even now, they have clubbed together; and what they are doing is known to all. In such a situation, our armed forces naturally are and should be much more vigilant with regard to this ideological influence or even provocation; they are not to be provoked. At the same time, an Army Intelligence Wing has to be strengthened. Our armed forces are to be put to a very great and difficult task, very very difficult

[Sh. Bhogendra Jha]

task because they have not to fight enemy openly but through some method, hit and run; and in such a situation, some people are killed by the time armed forces do come. I am talking of Kashmir, of Punjab; by the time armed force come the real penetration for those crimes are gone; and perhaps many innocent people are killed. So, an Army Intelligence Wing has to be strengthened much more than at any time in the past.

With regard to ex-service men, they are the most disciplined force in the country because of their training; and I think in many areas they are allotted land, community land and they are in trouble. I am not going to explain by giving an example. Even I with all the sympathy and patriotic feeling for them, cannot support because that goes against their interest. So, I would like to say that the State must provide means and resources for self-employed productive endeavour; that will add to the country's produced goods and at the same time an honourable, capable living for those persons who have served the country. I do again emphasise, not, that they should be given just some community land by the roadside at some place, as these things are happening, I would say that for ex-servicemen, there must be a guaranteed provision that they must be helped by the State to stand on their legs through self-employed productive endeavour. More effectively they could set examples for other people, particularly in areas which are backward. I am talking of Eastern India, Central India and other parts of the country, where we are backward in the productive culture, particularly self-employed productive culture.

One more thing I would like to state without taking much of your time, that with regard to patriotic, secular, democratic and socialist standing of our armed forces, I wonder whether it is necessary that we have Battalions on the old lines, i.e. Rajput Batal-

lion, etc. Whether it is necessary to have those names even now? I think, the Government should consider over it, our Generals should consider over it, whether in today's conditions those nomenclatures are necessary. The Britishers needed them, they did use them. But in today's conditions, there should be a mixture of armed forces. It can also be a better example for our country's unity and integrity. With these words, I finish it. Thank you, Sir.

[*Translation*]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Chairman, Sir, I would conclude my speech only in two minutes. When the criminal procedure code 1898 can be amended in 1973 why the Army act of 1950 cannot be amended. What is the reason? I am however, not opposing the amendment brought forward by the Government to check the delay in second trial for punishment and hard labour, but I would say certainly one thing in this context that army should only be utilised for the purpose wherever needed. The Government has utilised the army of the country in Kashmir, Nagaland, Assam and Punjab. It means our army is fighting against our own citizens instead of any enemy. I think that it is not good if under this trend army is deployed to fight against the citizens in the wake of Ram Janam Bhoomi issue. We have to consider as to how the army can properly be deployed?

Secondly, I am not in favour of the proposal of the Government laying down a period of six months for trial after the three years of retirement of an army personnel. Thirdly, what is the reason why the senior officers of army are forced to go to the civil courts? Have the rules of army become so ineffective that nobody is relying upon them? Government should think over it also.

Mr. Chairman, Sir, I have also moved an amendment suggesting constitution of a

special court comprising 3 judges of Supreme Court. The hon. Minister should also consider the provision of appointing advocates. This court should take the decision on a case within 90 days.

Mr. Chairman, Sir, the hon. Minister should consider the constructive suggestion given by me to the effect that army should not be asked to fight against the citizens and a feeling of distrust should not be created in the minds of people for army. The hon. Minister should be serious in his reply. I thank you for providing me time to express my views.

[English]

SHRI RAMESH CHENNITHALA (Kottayam): Mr. Chairman, Sir, this is a welcome step and I am congratulating the Minister for coming with certain Amendment for the Army Act. Army Act, 1950 is a modified version of the Army Act of 1911. There have been no major amendments after that. I think this is the only Bill, which nobody thought to amend, nobody thought about it seriously. Actually, the army personnel in our country have displayed their courage, whenever it is necessary.

So, I thank that we have to pay more attention to this field. They are protecting our country, they are protecting the freedom of our country and they have lot of problems which are to be attended immediately. I do not want to go into their problems now. However, there is a need to review the Army Act with a view to ensure the discipline and well-being of the Indian Army.

My first suggestion to the hon. Minister is, since this Army Act of 1950 is an Act which was formulated by the Britishers, lot of changes have to be brought out, because the world is changing and so the problems are different, and discipline should be ensured. Due to the changed circumstances in

totality, this Act should be reviewed and the hon. Minister should come back with a comprehensive Bill so that the major issues and lacunas can be sorted out. This piecemeal approach will not help.

Now, I will come to the amendments. Sections 75 and 76 of the Act deal with field punishment. It is a welcome step that this field punishment is being abolished by this amending Bill. This field punishment is an out-dated, punitive and uncivilised punishment. This should be abolished.

Clause 2 of the Bill is for the omission of these Sections 75 and 76. Clauses 3, 4 and 5 are also for the removal of 'field punishment' from sub-section (1) of the Army Act.

Clause 6 seeks to amend Section 85 of the Act. Section 85 of the Army act empowers the Commanding Officer to award the punishment of stoppage of pay and allowances to a Junior Commissioned Officer where loss and damage are caused to the Government and it is proved against the accused Junior Commissioned Officer. The Bill provides that this could be done by a Colonel. My suggestion is that to avoid unnecessary delay, in place of a Colonel, a Lt.-Colonel may be deputed. This is the amendment which I had proposed. Because we see that there are unnecessary delays in dealing with the cases and a Colonel will not find time to deal with the cases in the stipulated period of time. So, my suggestion is, in order to avoid the delay the power of the Unit Commander if he is holding the rank of a Lt. Colonel, should not be curtailed, so that speedy implementation and maintenance of discipline could be ensured. I strongly propose that the Lt. Colonel of the Commanding Unit may be empowered to award the punishment of severe reprimand or reprimand, stoppage of pay and allowances to Junior Commissioned Officer.

MR. CHAIRMAN: Stick to your promise. Please wind up.

SHRI RAMESH CHENNITHALA: I am coming to the amendments. I do not elaborate.

So, I agree with that amendment. Clause 7 may be passed as proposed. I agree with that amendment also.

Clause 9 of the Bill seeks to provide for two years for the existing time-limit in the Act. Actually, this amendment is unnecessary and unwarranted because the proposed amendment seeks to empower the authorities to initiate action even after the expiry of three years. That is, even after the expiry of three years, if the offence is detected action will be taken. I humbly submit that after a period of three years if the offence is detected and when the identity of the offender is not known, then this will definitely give rise to lethargy. So, my point is that this amendment is unwarranted because after three years it is highly difficult to detect the culprit. I consider this amendment as unwarranted and I think it is not at all necessary.

And, lastly, it is essential to plug the loopholes in the legal system in the Indian Army. Section 123 of the Army Act entitled the offender to go scot-free Six months after retirement. Sir, when an officer is retiring, after six months he will be free from all his crimes. Sir, now it is being amended as three years after retirement.

Presently there are a lot of officers who are taking advantage of this Clause. So, I welcome this amendment. There are lot of cases which are going on in the case of court-martial. I do not want to go into the details. This is a welcome step.

My final point is about the second trial. If we pass this Bill, there will be no second trial as per Clause 11. Army Act is not above the Civil law. So, we must give a chance for any individual to represent his case in the court of law so that he can get justice.

Now I come to Captains. If the proposed amendment - Clause 12- is enacted, I think, it is giving the power to the Captains. This must be given to some other higher officer so that mature decision can be taken.

I do not want to go into the details now. I once again request the hon. Minister to come with a comprehensive Bill so that lot of loopholes can be plugged and the problems of the Army persons can be sorted out. There are lot of problems like family accommodation, transfers, etc., which they are suffering. This Act was formulated by the Britishers and till now there is no change in the Act; there is no amendment in the Act. I request the hon. Minister to come before the House with a compact Bill so that the problems of the Army persons can be settled and sorted out.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS AND MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI S. KRISHAN KUMAR): Mr. Chairman, Sir, in my opening remarks, while introducing the Bill, I had explained at length the general rationale of the Bill as well as the rationale behind the individual provisions. If I may reiterate, Sir, of the 22 provisions sought to be amended, five are in the nature of cosmetic changes necessitated by the 1898 CRPC code being replaced by the 1973 code. So, simply the nomenclature has to be changed in the concerned provisions.

Almost nine provisions relate to the abolition of field punishment, to which I will come later. Therefore, the substantive changes are only in relation to eight sections, the rationale of each of which I had explained at length in my opening statement.

Sir, I would like to thank the hon. Members who have participated in the debate. There are many distinguished Members who

have great experience even in serving in the Armed Forces like General Khanduri, a great distinguished soldier as also my colleague, Shri Singh Deo, who was once the Raksha Rajya Mantri.

In order to make my concluding statement or my reply to the debate as short as possible, I would like to concentrate on the main points raised by all the distinguished speakers. Firstly I will come to the field punishment. The Government is of the opinion that field punishment, which is in the original Army Act, enables the commanders or the commanding officers to inflict somewhat archaic and inhuman punishment like tying with rope, iron chains/letters, and all that. They are not in consonance with modern jurisprudence and are certainly archaic, happily as I said, never was Field Punishment awarded by any court martial after independence in the country. So, in any case, even in practical terms, it is not found necessary. Shri K.P. Singh Deo has only mentioned that in operational conditions, probably when the army is on the march and so on, Field Punishment may be necessary. But the informed opinion in the armed forces is that there are several other provisions by which the summary court martial discipline can be enforced even in operational conditions without the provision of the Field Punishment.

So, there are Sections 71, 80, 83, 84, 85 and 120 of the Army Act where summary punishment can be awarded from reprimand escalating to even death and so on. So, the provisions in the Act, even after deleting the provisions relating to Field Punishment, are entirely adequate in looking after the discipline and enforcement of orders in the army, in operational conditions from the Government's point of view.

The second major opinion on which several Members spoke was on the necessity of a separate Appellate Tribunal for the

Army in order to ensure that no injustice or denial of natural justice is perpetuated on the members of the armed forces. Hon. Member, Shri K.P. Singh Deo is entirely correct. There was a certain opinion expressed at certain time in the Defence Ministry consequent on a Supreme Court judgement or Supreme Court *obiter dictum* or opinion that a separate judicial review mechanism can be considered, But, since then the Ministry has examined this issue in great detail. The opinion of the armed forces is that any system of such judicial review over the court martial will considerably at any rate distract from the sacrosanct discipline of the army. Even the Founding Fathers of our Constitution have insulated court martial from the power of Superintendent of High Courts under Article 227(4) and also from the extraordinary powers conferred on the Supreme Court for grant of special leave to appeal, etc. So, the founders of our Constitution have taken this into consideration and in their wisdom very rightly insulated the discipline working of the armed forces. (*Interruptions*). I will give you an opportunity.

SHRI K.P. SINGH DEO (Dhenkanal): We have already amended the Constitution eighty times.

SHRI S. KRISHANKUMAR: They have already taken into account. So, we do not want that the court martial decisions are immediately taken to court whether at the end of the court martial or while the proceedings are still on. That will take away from the powers of the Commending Officer and it will violate the principles of army discipline in actual working.

There are already several provisions existing for redress of grievances under Section 27 of the Act. Any service officer, who feels wrong, has a statutory right to make a representation to the Central Government. It has to be disposed in a time bound manner. No authority below the

[Sh. K.P. Singh Deo]

Central Government has the power to reject the complaint. Similar provisions exist for JCOs and ORs, where the authority is the Chief of Army Staff.

For punishments arising out of Court Martials, provision for pre-confirmation and post-confirmation petitions exists. Only 28 days imprisonment can be given in the field. Even that has to be confirmed. Similarly post confirmation petition has to be disposed of only at the level of the Central Government. So, these redressal procedures are already existing in the Army.

I will refute categorically any suggestion that a Commanding Officer of a Battalion or a field formation will act in a manner prejudicial to the interests of the Jawans.. (*Interruptions*). Sir, I will not like to be interrupted. I know the hon. Member knows a lot.

The Commanding Officer is the father figure of the Brigade or the platoon. In the highest traditions of Armed Forces, he is expected to protect his Jawans and I do not think he will act in an unjust manner. In any case, the appeals lie. In the case of Field Court Martials also, the appeal goes to the Central Government, the Army, the Advocate General. A different level of officers, a higher level of officers are reviewing it. So, in no way can the Field Officer influence a higher officer sitting in the organisation of the Chief of Staff. These procedures are there and, therefore, any suggestion to that effect is refuted.

As I said, in the Ministry it is our considered opinion, and I also totally agree, that there should not be any fresh intervention in the Army Act by which everybody can go to a court and, at any rate, undermine the discipline in the Armed Forces. The Armed Forces are the last bulwark of discipline in

the country. They are the last instrument of State power, especially in the geo-political situation faced by the country, the internal disturbance of the country. Armed Forces are being asked continually to aid the civil power. So, we should not do anything to detract from the discipline of the Armed Forces. We can illafford any decrease in the discipline of the Armed Forces.

I do not want to take long time of the House. I have already mentioned that the period of six months under section 125 has been increased to two years because it was found that many officers escaped. As the legal process exists, it is very difficult to bring some people to book within the six-month period. We need three years. It is also in consonance with the similar provision in the new Criminal Procedure Code.

Many of the observations made by the Members were not strictly related to the amendment moved by us. As Gen. Khanduri remarked, we did not have an opportunity to discuss the Defence Budget during the discussion on the Demands for Grants. But this opportunity of moving an amendments to the Army Act cannot be used as a replacement for the opportunity we lost.

Many observations were made regarding training to LTTE, number of court cases, operation, recruitment, training, corruption and so on. I would have liked to answer all these points but that will take a long time. The Finance Minister is sitting here and he wants to move something... (*Interruptions*).

MR. CHAIRMAN: Please do not disturb.

SHRI S. KRISHAN KUMAR: I would only like to mention one more point and I am going to finish and that is regarding the preponderance of court cases, which is appearing in the conduct of the Armed forces.

About the number, there are about 1,000

court cases which are pending in the courts. I may say that ours is the fourth largest army in the world. I do not want to mention how many men we have. But considering the fact that ours is the fourth largest army in the world, 1,000 cases pending is not much. It is only due to the greater awareness of the people rather than any defect in the functioning of the Army Act. I would like to say that from 1950 onwards to this date, after the Army Act has come into force, not a single provision of the Army Act nor any of the regulation of the Army Act have been struck down by any single High Court or the Supreme Court in the country. That itself is the testimony to the fact that these provisions are not against the tenets of law.

In the court cases, 95 per cent of the cases have been disposed of in favour of the Government and only 5 per cent were against the Government.

I would like to conclude. These amendments have been brought after a great deal of deliberations. This is not the last word. I quite agree. There has been a sense of urgency only in relation to 22 sections and in relation to other 100-odd sections, a committee of the army officers is looking at it thread-bare and within a year, if found necessary, we will bring in further amendments more of a comprehensive nature in the light of the discussions and recommendations of that committee.

With these words, I now commend these amendments for the acceptance of this august House.

[Translation]

SHRI GIRDAHRI LAL BHARGAVA: Mr. Chairman, Sir, I seek leave of the House to withdraw my amendment.

[English]

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his amendment.

SEVERAL HON. MEMBERS: Yes.

*Amendment No. 2 was, by leave, withdrawn*

MR. CHAIRMAN: Amendment No. 3 of Shri Dau Dayal Joshi - not here.

Now I put Amendment No. 3, moved by Shri Dau Dayal Joshi, to the consideration motion to the vote of the House.

*Amendment No. 3 was put and negatived*

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Army Act, 1950, be taken into consideration".

*The motion was adopted*

MR. CHAIRMAN: The House will now take up Clause by Clause consideration of the Bill.

The question is:

"That Clauses 2 to 5 stand part of the Bill".

*The motion was adopted.*

*Clauses 2 to 5 were added to the Bill.*

MR. CHAIRMAN: There are amendments by Shri Ramesh Chennithala and Shri Girdhari Lal Bhargava to clause 6.

SHRI RAMESH CHENNITHALA (Kot-tayam): I am not moving my amendment.

SHRI GIRDHARI LAL BHARGAVA  
(Jaipur): I am not moving my amendment.

MR. CHAIRMAN: The question is:

"That Clause 6 stand part of the Bill".

*The motion was adopted.*

**Clause 6 was added to the Bill.**

MR. CHAIRMAN: The question is:

"That clause 7 and 8 stand part of the Bill"

*The motion was adopted.*

MR. CHAIRMAN: There are amendments by Shri Ramesh Chennithala and Shri Girdhari Lal Bhargava to clause a.

SHRI RAMESH CHENNITHALA: I am not moving my amendment.

SHRI GIRDHARI LAL BHARGAVA: I am not moving my amendment.

MR. CHAIRMAN: The question is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

**Clause 9 was added to the Bill.**

**Clause 10 - Amendment of Section 123.**

MAJ. GEN. (Retd.) BHUWAN CHANDRA KHANDURI (Garhwal): I move: page 3, line 4,—

*for "three years" substitute—*

"six months" (1)

SHRI GIRDHARI LAL BHARGAVA  
(Jaipur): I move: Page 3, line 4,—

*for "three years" substitute—*

"eight months" (6)

MR. CHAIRMAN: I shall now put amendments Nos. 1 and 6 to clause 10 moved by Maj. Gen. (Retd.) Bhuwan Chandra Khanduri and Shri Girdhari Lal Bhargava to the vote of the House.

Amendments Nos. 1 and 6 were put and negated.

MR. CHAIRMAN: I shall now put clause 10 to the vote of the House.

The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

MR. CHAIRMAN: Now Clause 11 Mr. Singh Deo and Mr. Sudhir Sawant, are you moving your amendment?

SHRI K.P. SINGH DEO (Dhenkanal). I am not moving my amendment.

SHRI SUDHIR SAWANT (RAJAPUR): I am not moving my amendment.

MR. CHAIRMAN: Now Mr. Khanduri.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: Sir, I move:

Page 3,—

for clause 11, Substitute—

"11. For section 127 of the Principal Act, the following section shall be substituted, namely:—

"127. (1) Any person subject to



this Act who Considers himself aggrieved by a finding or sentence of any Court-martial except summary Court martial may prefer an appeal against the sentence to the Special Court of Appeal;

within a period not exceeding ninety days; and

- (7) The Headquarters of Special Court of Appeal shall be located at New Delhi or at such other place as may be decided by the Central Government in consultation with the Supreme Court."

- (2) There shall be a Special Court of Appeal for Defence Services personnel consisting of three judges of the rank not less than that of a High Court Judge, having knowledge of Military Law;

Sir, the Minister was requested in the beginning for some information on it. He has given two reasons. One is, he says that there is change of opinion in the Service Headquarters from the time when Shri K.P. Singh Deo's Bill came. He has not told us as to what are the reasons for the change of mind. Is it just because somebody does not like the idea or are there any specific changes in the circumstances from 1981 till 1992 on account of which you have changed your mind, you have not said so.

- (3) The Judges of the Special Court of Appeal shall be nominated by the President of India in consultation with the Chief Justice of the Supreme Court;

The second thing you have said is that there is already an appeal...

- (4) The procedure followed in the High Court for the hearing and disposal of appeals against the judgments of the lower courts shall be followed in the Special Court of Appeal which shall also consider the facts of the case;

SHRI S. KRISHAN KUMAR: It is not a change of mind because it was not ultimately decided.

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: No, you have said that there is change of circumstances and now Service people have changed their opinion.

- (5) The decision of the Special Court of Appeal shall be final and no Appeal shall lie against its decision to any other authority;

SHRI S. KRISHAN KUMAR: No, no, Service people have been always of the same opinion.

- (6) The Special Court of Appeal shall decide the appeals preferred to it

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI: The second thing is, the present system is not working fairly because we cannot expect the same Department people to give decisions against their own people. I would like to know whether there have been cases where the opinions of

[Maj. Gen. (Retd.) Bhuwan Chndra Khanduri]

Courts-Martial have been disagreed upon by the Judges and how many such cases are there because if you come to actuals, it is just not humanly possible that the same Department would disagree with its own people. In every Court-martial there is a representative of the Judge Advocate General Branch and therefore, it is not humanly possible to expect them to give opinion against their own people.

SHRI S. KRISHAN KUMAR: I will give the information to the Member separately.

MR. CHAIRMAN: I shall now put amendment No. 18 moved by Maj. Gen. (Retd.) Bhuwan Chandra Khanduri to the vote of the House.

*Amendment No. 18 was put and negatived.*

MR. CHAIRMAN: I shall now put clause 11 to the vote of the House. The question is:

"That clause 11 stand part of the Bill."

*The motion was adopted.*

*Clause 11 was added to the Bill.*

12.00 hrs.

MR. CHAIRMAN : Now clause 12. We have two amendments to Clause 12 given by Shri Ramesh Chennithala and Shri Girdhari Lal Bhargava.

SHRI RAMESH CHENNITHALA: I am not moving my amendment.

SHRI GIRDHARI LAL BHARGAVA: I am not moving my amendment.

MR. CHAIRMAN: The question is:

"That Clause 12 stand part of the Bill."

*The motion was adopted.*

*Clause 12 was added to the Bill.*

MR. CHAIRMAN: "The question is: That clause 13 to 19 stand part of the Bill."

*The motion was adopted.*

*Clauses 13 to 19 were added to the Bill.*

MR. CHAIRMAN: The question is:

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

*The motion was adopted.*

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

SHRIS. KRISHANKUMAR: Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

MR. CHAIRMAN: Now, the House stands adjourned to meet again tomorrow, the 19th August, 1992, at 11.00 a.m.

20.01 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, August 19, 1992/Sravana 28, 1914 (Saka).*