

MR. SPEAKER : The question is:

"That the Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 1996-97, be taken into consideration.

The motion was adopted.

12.36 hrs.

APPROPRIATION (NO. 2) BILL, 1996*

[English]

THE MINISTER OF FINANCE AND MINISTER OF COMPANY AFFAIRS (SHRI P. CHIDAMBARAM): I beg to move for leave to introduce a Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amount spent on certain services during the financial year ended on the 31st day of March 1994 in excess of the amounts granted for those services and for that year.

MR. SPEAKER : The question is:

"That leave be granted to introduce a Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1994 in excess of the amounts granted for those services and for that year."

The motion was adopted.

SHRI P. CHIDAMBARAM : I introduce** the Bill

MR. SPEAKER: Now motion for consideration.

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1994 in excess of the amounts granted for those services and for that year be taken into consideration."

MR. SPEAKER : The question is:

"That the Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1994, in excess of the amounts granted for those services and for that year, be taken into consideration."

The motion was adopted.

* Published in the Gazette of India, Extra Ordinary Part-II, Section-2 dated 26.7.96.

** Introduced and moved with the recommendations of the President.

MR. SPEAKER : The House will now take up Clause by Clause consideration of the Bill.

The question is:

"That clause 2 to 4 stand part of the Bill."

The motion was adopted.

Clause 2 to 4 were added to the Bill"

MR. SPEAKER : The question is:

"That the schedule stands part V of the Bill"

The motion was adopted.

The Schedule was added to the Bill.

MR. SPEAKER : The question is :

"That clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

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

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill be passed."

MR. SPEAKER : The question is:

"That the Bill be passed."

The motion was adopted.

CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) BILL

[English]

THE MINISTER OF FINANCE AND MINISTER OF COMPANY AFFAIRS (SHRI P. CHIDAMBARAM) : Sir, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) was enacted to provide for preventive detention in certain cases for the purposes of:

(a) Conservation and augmentation of foreign exchange (with reference to foreign Exchange Regulation Act, 1973 or FERA); and

(b) Prevention of smuggling activities and for matters connected therewith.

In recent years, India has been facing a serious problem on smuggling activities at International Airports and Sea Ports. The menace of smuggling has not abetted in any way despite the import of five kilograms of gold and hundred kilograms of silver per passenger allowed by Government on payment of nominal custom duty in convertible foreign exchange. Even though a number of measures under the Customs Act, 1962 have been taken in the past namely adjudication and prosecution proceedings and the provisions for preventive detention under the COFEPOSA Act, 1974, smuggling continues to be a serious problem to our economy.

The COFEPOSA Act provides for two types of cases in which persons engaged in smuggling activities can be detained. The first relates to order of detention issued u/s 3(1) of the Act where in the maximum period of detention is one year. After a person is detained the case is referred within 35 days to the Advisory Board consisting of three High Court Judges for their opinion. If the Advisory Board recommends that the detention is not justified the detenu is released forthwith. In other cases, the detention orders are confirmed within 90 days.

The second type of cases relates to cases of persons engaged in smuggling activities in areas categorised as "highly vulnerable areas" under Section 9 of the Act. These areas include West Coast, South Eastern Coast, Indo-Pakistan Border and Delhi Airport. A residual clause provided the extension of these definitions to other areas. In terms of this provision, the Calcutta Airport was defined as "highly vulnerable area" in December, 1985. Subsequently, Indian Customs waters contiguous to State of Andhra Pradesh and Orissa, Yanam in the U.T. of Pondicherry and the inland area 50 kms. in width from the Coast of India falling within the territories of States of Andhra Pradesh and Orissa and Yanam were also declared as "highly vulnerable areas" in December 1991. If the Competent Authority issues a declaration under Section 9(1) of the Act to the effect that a person is likely to engage in smuggling activities in "highly vulnerable area" the maximum period of detention is increased from one year to two years as per Section 10 of the Act. In such cases, the opinion of the Advisory Board is required to be obtained within six months of detention instead of usual period of three months.

As for the cases of persons detained for violation of FERA provisions, the maximum period of detention is one year. In such cases, provisions of Section 9 will not be applicable.

Past experience shows that the provisions of Section 9 of the Act has been a strong deterrent to smuggling.

It is, therefore, considered necessary to continue the provisions of Section 9 of the Act in respect of detention orders which may be issued even after 31st July, 1996 for a further period of three years.

With these words, I beg to move.

"That the Bill further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, be taken into consideration."

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, be taken into consideration."

MR. SPEAKER : The time allotted for this Bill is one hour. I have received only one hon. Member's name,

who wants to participate in this Bill. Now, I call upon Shri Ramendra Kumar to speak. Please be brief.

(Interruptions)

[Translation]

SHRI V. DHANANJAYA KUMAR (Mangalore): The names of we two persons are there. We should also get an opportunity.

[English]

MR. SPEAKER : I call upon Shri Bhagwan Shankar Rawat to speak.

(Interruptions)

[Translation]

VAIDYA DAU DAYAL JOSHI (Kota): Mr. Speaker, Sir, before considering this Bill, I would like to draw your attention to a point. Because no notice was taken to whatever we said in the zero hour, the practice of Rule 377 and submissions was started. When this practice was started, a decision to the effect was taken that it would be ensured that the reply is sent to the hon. Members. But it is unfortunate that it is not being done. We give notice of our submissions under Rule 377 but till date no Minister has paid any attention to it, no reply has been sent to us. The spirit behind notices under Rule 377 was that otherwise no attention was paid to the debate and discussion in the House during the zero hour. I would like to submit through you, Sir, that the hon. Ministers of the Central Government should ensure that the reply is sent within seven days to the Members raising matters under Rule 377 and making submissions.

12.43 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, Sir: I would request you to issue guidelines to the hon. Minister to send the replies to the Members who raise matter under Rule 377 and make submissions lest the notices under Rule 377 and submission should befall the same fate as that of the debate under zero hour I urge upon you, Sir, to issue guidelines to the hon. Ministers and the Minister for Parliamentary Affairs to ensure that the replies are regularly sent

[English]

SHRI P. CHIDAMBARAM: Sir, they cannot interrupt the debate and raise some other issue. The Speaker has called upon the hon. Member to speak on this Bill... (Interruptions) The debate on the Bill has been started... (Interruptions)

[Translation]

DR. SATYANARAYAN JATIA (Ujjain). Mr. Deputy Speaker, Sir, the tradition had been that the replies were sent to the matters raised under Rule 377 by the Ministries concerned but now in spite of wait, no reply

is received to such notices. I would request you to issue direction to the effect that this practice is implemented and the Ministers concerned issue replies to the matters raised so that these matters gain their importance and become meaningful...*(Interruptions)*

SHRI V. DHANANJAYA KUMAR (Mangalore): This is all right, but we are bringing it to your notice...*(Interruptions)*

MR. DEPUTY SPEAKER : Do you intend to speak something regarding Rule 377 ?

[English]

SHRI P. CHIDAMBARAM : The convension is that notice under Rule 377 are sent to the Ministers concerned. The Ministers have to reply to the hon. Member. If any Minister is not replying, we shall certainly ensure that the Ministers reply to the Members under Rule 377.

[Translation]

SHRI BHAGWAN SHANKAR RAWAT (Agra) : Mr. Deputy Speaker, Sir, I support the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill 1996 under consideration in the House, but before that I would like to submit something regarding this Bill. There is no use bringing this bill on the Statutory book until the will of the Government to translate this Bill into practice is awakened. Various activities under the economic crimes in the country are continuing. In this context I would like to submit that the situation in this regard is dangerous. These activities can be checked under this Act. At present, smuggling activities have given rise to economic crimes. Because of this, the integrity and unity of the country is in great danger. As the terrorists amass wealth in this way, they feel encouraged to use it in any way they like, be it purchase of R.D.X. or to acquire illegal arms, you might have come to know that recently arms and ammunitions were air-dropped in Purulia. These arms were purchased with illicit money. Arms are being smuggled into the country and then these weapons are being used in the incidents of sabotage whether it is Punjab, Kashmir, Tamil Nadu or North-East. It is necessary to check these incidents. Mere enactment of the law does not suffice. I would like to submit this also that a parallel establishment is being run and economy of the country is being destroyed. Therefore, this law required to be implemented right earnestly but the Government lacks the will to work and in the *absence* of this will to work, the law in vogue for the last so many years is not being changed and the country is facing a danger.

Now, I would like to give some examples. The provisions of this law are being violated and a nexus between the politicians and persons indulging in economic crimes is being formed. The economy of the country is being pushed to the abyss as a result thereof. Urea scam to the tune of Rs. 133 crore was there. In this connection the Directorate of Enforcement observed

that there had been violation of FERA in this case and the matter should be looked into. But CBI is not cooperating and they have not replied the letter addressed to them in this respect. I would like to submit that an attempt is being made to hush up the urea scam under political pressure. Although the Directorate of Enforcement has taken initiative in this respect but in spite of that no action is being taken in the matter. My submission is that they should be extended full opportunity so that all aspects of the case could be examined. It is known to everybody that the accused Shri Prakash Yadav has said in this respect that the whole payment has been made in Dubai through Dharmesh Yadav and Ranjan Bhandari but in spite of this, efforts are being made to protect them. Also, there is an other aspect of urea scam and the law is not being implemented in this regard also when it has been provided that it should be enforced strictly. C.B.I. knew that FERA has been violated in this case. The amount of 38 million dollars given by SBI is a wrong step. But the S.B.I. has not taken active interest in the enquiry into the urea scam, nor has it stopped payments of such type. Until the Finance Minister enforces the law seriously, the entire effort will prove an exercise in futility.

Then there was sugar scandal to the tune of ten hundred crore of rupees. In this four hundred crore of rupees were sent abroad but no foreign exchange was deposited here. No effective action has been taken in this regard. The guilty officers are being protected. If no action is taken within five years remaining for their retirement, they will go scot free. Then, there is the scandal of the disinvestment of shares of the public sector undertakings. The amount therein quantified by P.A.C. comes to eight thousand crore rupees and the amount quantified by C.A.A.G. comes to 2000 crore rupees. In this case also no action has been taken under this law.

Sir, Janata Dal came to power in 1989 and the Bofors Scandal was brought to public notice. Now, my friends of Janata Dal have forgotten Bofors. In this case also, FERA has been violated. Because of political convenience, they are silent on this issue now. Jain Hawala scandal has rendered the political situation of the entire country topsy-turvy. Had the timely action taken under FERA, the things might not have assumed this shape. This scandal has weakened the political fibre of the entire country and all this has happened because of the weakness of the Government.

Sir, recently I have read that a meeting of I.A.S. officers of Uttar Pradesh is going to be held to decide as to who are the three most corrupt officers in the I.A.S. cadre of Uttar Pradesh. An attempt is being made to identify them. These people also earn money illegitimately and keep that in foreign countries. They are in league with the politicians and deposit this money in foreign banks. The ill-effect of this money has been witnessed in the elections also. I would, therefore, like to submit that the Government should awake its will to

work and implement that will effectively. Only then, it would be beneficial. Otherwise, there will be no use enacting one more law and adding that to the Statute book. I would also like to submit that strict measures have to be adopted to deal with the practice of depositing black money in the foreign banks. The Government should take initiative to collect information in this regard. This job can be done through the Reserve Bank of India or the Government can do it themselves. No serious effort has been made in this regard even so many years after independence. Black money is deposited in the foreign banks and this money is then siphoned into India through Hawala deals. This practice should be stopped. A parallel economy is going on in the country.

The Government did take some steps to curb hawala activities but could not achieve the desired results. Therefore, I would like to submit that "vulnerable area" declared by Government in respect of contraband goods has now encompassed the entire country and as such this rule should not be there that in case somebody commits an offence in the "vulnerable area" only then the offence is grave and in case that offence is committed in the remaining part of the country, it loses its gravity. What I want to submit is that the entire country should be considered a vulnerable area and the offenders dealt with severely in all the places. Sir, I am pained on the score that the value of money is depreciating in the country, inflow of foreign goods in the country is increasing although the figures speak otherwise, i.e., in the year 1992-93 contraband goods worth 498 crore rupees were confiscated, in the year 1993-94 they were of the value of 456 crore rupees and in the subsequent years they were still less. I would like to ask why the Government is not adopting strict measures to check this inflow. The coast guards and other concerned institutions should be provided modern amenities in this respect such as equipment, weapons, fast boats etc. so that they are in a position to take action against the smugglers with speed.

I support the Bill with the request that it should not prove a mere formality but the Government should take some hard steps in this respect and adopt some effective measures to break the nexus between the politicians and the criminals. With these words, Sir, I conclude.

SHRI RAMENDRA KUMAR (Begusarai): Mr. Deputy Speaker, Sir, I support the Bill. In fact, all those people who love this country and believe in the unity and integrity of this country, support this bill. This bill is very small in appearance, but it is very effective.

Mr. Deputy Speaker, Sir, this law is in force in our country for the last twenty-two years. But the question is whether the number of smugglers in our country has increased during these twenty-two years or it has decreased. In my view, their number has increased. The number of people earning money through illegal means has increased. The moot point which we have to ponder

upon is why the tribe of such people is increasing in the country. Mr. Deputy Speaker, Sir, in my view this may be the case of the fence eating the crop, i.e., the concerned officers may be in league with these people. Otherwise, what is the reason that foreign arms and ammunitions are air-dropped in our country clandestinely and till date we have not been able to find out who are the people behind this affair. In case we are unable to find out, this only shows that somewhere there is some wrong in our establishment.

13.00 hrs.

If some law is made, and that law is not enforced strictly, then what will be the gain of such law. I, therefore, suggest that whatever law is made by you and for which you have our full support, you should enforce that law strictly and there should not be any discrimination in its implementation.

Mr. Deputy Speaker, Sir, in my view the smugglers have a nexus with the society at large as also with the politicians. They are playing a dangerous role in our country's politics. This is why there seems to be some type of wrong somewhere. The smugglers are not being dealt with that severely as they should have been. I would therefore like to urge upon the Government to enforce the laws available to it strictly.

With these words, Sir, I again support this Bill with the hope that the Government will deal with the smugglers strictly.

[English]

SHRI B.K. GADHVI (Banaskantha): Mr. Deputy Speaker, Sir, technically, this is a very small Bill where only the extension of period is sought. But, Sir, smuggling has become a menace to the country and it is assuming a universal dimension. Various types of smuggling activities are in operation. Formerly it was either silver which was smuggled out of the country or gold which was smuggled into the country. Those were the main commodities which were being smuggled. Since the import of gold, either under the baggage or under special import licences, has increased, for some time, the smuggling of gold had gone down but it has started increasing again. The most alarming feature is the smuggling of RDX, weapons and drugs, which is a great menace. Therefore, I would suggest to the Government that in the area of detention of smugglers or those who are likely to operate in smuggling activities, or in the area of landing agents there should be two things. Those who are indulging in the smuggling of drugs, arms, RDX, explosives, etc., they should be detained for not less than three years and those operating in the smuggling of other commodities, could be detained as per the Bill. If we do not do that, then the deterrent action we intend to take against the smugglers, would not be effective.

Secondly, I am happy that the Coast Guard is operating well. I also appreciate the activities and alertness of our Customs officers. But the reward system needs to be reviewed. It is good that we give reward to the persons who give information, but the rewards are also being given to the Customs officers. It causes disenchantment among the Customs officers because if some competent officer is placed not on the shore but somewhere else in the country, in central India, where he hardly gets any chance to catch smugglers, then he does not get anything, whereas those officers who are posted on the coastlines and other vulnerable areas, they get rewards. Rewards must be given, but my suggestion is that such rewards should be put in a pool for the welfare of the Customs officers.

They should not be for individual gains. Otherwise there will always be manoeuvres for transfers, and that has got to be checked.

The third thing which I wish to submit is that the Coast Guard who are working efficiently all over have got diverse activities. They have the job of curbing not only smuggling activities but other activities also. I find that as compared with the Coast Guard or other such forces of other developed countries our Coast Guard is a little handicapped in the area of equipment, in the area of transport facilities, on the sea as well as with regard to their fleet - naval fleet and air fleet. So, in these areas also the Government should pay a little more attention and enhance the capability to combat the smuggling menace.

Smuggling has become a universal phenomenon. It is very necessary to curb it. It has got a tendency to affect the entire economy and the social fabric of the country. It generates criminal tendencies in the minds of the people who are residing along the seashore. My friend from the Opposition has rightly asked as to why the Government should demarcate a particular area as vulnerable when the entire country's borders are vulnerable - the border with Nepal, the border with Bangladesh and all others. If such has been the case, why then ask for extension in instalments? These two things, smuggling activities and conservation of foreign exchange, are going to be perennial. Therefore, instead of taking extensions for one or two years, why does the Government not make it permanent so that it need not come to the House time and again?

With these words, I support this Bill. It is a very small Bill. I do not want to take much time of the House. But I hope and trust that the suggestions which I have given will be considered by the Government and something tangible will be done in this regard.

SHRIV. DHANANJAYA KUMAR: Hon. Deputy Speaker, Sir, I rise in support of the provisions contained in this Bill, though the provisions are not fully satisfactory as was being submitted by the Members from the Congress Party that the provision should be made permanent instead of just extending the period for a

further period of three years, that is upto 31st July, 1999. Today all of us know that so much of anti-national activities and disruptive activities are taking place in the whole of the country and day in and day out we are hearing cases wherein the lives and property of the citizens of this country are put to danger. Many innocent people are killed. We have the examples of rioting in Bombay where RDX explosive was used extensively to kill the innocent people. Unfortunately, Sir, we have not been able to book the culprits, even after the lapse of a period of more than three or four years of the occurrence of such a heinous crime.

In the original Act, in the explanation, certain areas which are highly vulnerable for smuggling activities have been identified. I come from Karnataka State. Karnataka has a coast with a length of 300 kilometres.

There have been many number of cases of illegal smuggling of areas into this country through various specific ports and also other port cities along the coast of Karnataka. We have in hand the case of Batkal.

Sir, the other day, an hon. Member of this House had to make a complaint for seeking protection of his life. People who have been successful in illegal smuggling of these kind of weapons and the explosives, like RDX, they are out to create chaos in the country. They are also trying to interfere in the administration of law and order.

Sir, many a time the law and order machinery pleads helplessness. No doubt, we have very many agencies which are supposed to curb these kinds of activities and bring the culprits to book. But the hon. Finance Minister has not been magnanimous enough in providing sufficient funds to strengthen the hands of these agencies, for example, the Coastal Guard. Though the Coastal Guards have been doing a commendable job, they are not armed with sophisticated vessels, the machinery which is required for speedier chasing of the people who would like to get away with the offence. Many a time, none of the Coastal Guards are able to catch hold of these offenders.

Likewise, other areas of the Government also need to be strengthened. It is not sufficient to say that we would extend the period mentioned in this particular Section so that in cases where any preventive detention order that would be passed even a day prior to 31st July, 1999, the detention could be continued for the specified period without getting the opinion of the Advisory Board. I would say that this should be a permanent feature in the Act. I would like to know from the Government whether it is satisfied that this kind of violations and smuggling menace would come under control by the year 1999 so that there may not be any necessity to come up with another amendment seeking further extension of the specified time. Why should this provision not be made a permanent provision? Probably, what is coming in the mind of the hon. Minister is that there may be instances where this particular provision

may be misused politically or out of vengeance to keep somebody behind the bars. There is a risk of interfering with the personal liberty of an individual because he will be made to be behind the bars for quite a long time without getting the advice of the Advisory Board and without giving him an opportunity to say what he has to say. I would suggest the Government to think of an alternative machinery and in all such cases, a review could also be provided.

The highest authority can undertake such as exercise of review from time to time. But we need not take the opinion of the Advisory Board in all such cases within the time stipulated in the provisions of the Act.

(SHRIMATI GEETA MUKHERJEE *in the Chair*)

Many times, it is said that prevention is better than cure. So, we will have to take the strongest possible measures to prevent the recurrence of such offences, and a fear psychosis should be developed. I would say, in the sick minds of such people who are out to destroy the democratic polity of this country. Now, India is not the only exception. The world over, we have similar kinds of problems, and the entire community in the world is really worried about this. We know, how even the Heads of State had to face the wrath of such people, who make use of the illegal weapons which smuggled into the countries by means of smuggling, and then in disrupting the peaceful living in the world. So, India should, at least, stand up and should take the lead. We should be in a position to curb permanently such activities. We should take a determination today that in our country we would not allow such kinds of activities to be carried on, and we would never tolerate the attack that would be made by such people making use of the illegal weapons which are smuggled into the country.

I would also suggest that the Government should undertake an exercise to make a survey, an assessment, specially in the areas which are mentioned in the explanation to this section, as to what are the possibilities of existence of such arms and deadly weapons including the explosives like the RDX. It has been mentioned in the Statement of Objects and Reasons itself that we have the cases of smuggling of deadly RDX explosives and even the arms dropping cases in our country. Unfortunately, the law and order machinery has not been able to identify the culprits and get hold of them and punish them through the process of law. So, now, we will have to become alert, we will have to make an assessment, we will have to go in search of such people, specially in such areas which are more prone to such kinds of activities.

Today, with the development of modern technology, we cannot feel comfortable by saying that only certain areas are prone to such kinds of activities. The arms and the deadly explosives that are smuggled into the country through a particular port city or the coastal areas can reach any other part of the country within the shortest possible time.

Every year, during the special occasions like the Independence Day and on other solemn occasions, we do take precautions. Even in the capital city of Delhi there is a possibility of some attack from some corner, and during that time we become alert.

During that time we become alert and then we go in search of people who are capable of creating such kind of problems.

I am fully aware that Government is having a regular list which is being maintained by people who are known to have such antecedents. Why not the Government take action sufficiently in advance to review the whole list and then take preventive measures? The movements and activities of the people who are supposed to be suspect must be closely watched. The particular provision is meant, according to me for such cases. If the Government really acts as required by the provisions of this law, then it may not be difficult for the Government to identify such cases who are those people who are likely to indulge in such kind of activities and they could be brought to book and the occurrence or recurrence of such activities could be prevented well in advance.

Let the hon. Minister think about this matter again and let the provision be made a permanent feature in the Act so that the fear that is likely to be developed in the mind of such people would be removed for ever and they would be deterred from indulging in such kind of activities.

With these words, I again extend my support to the provisions of this Bill.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Madam Chairperson, the very name of this bill is Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1996. The spirit of this Bill is to conserve the foreign exchange and to prevent the smuggling activities radically. As the hon. Members speaking previous to me have observed that you have constituted an Advisory Board, and you want to extend the provision of the Bill by three years, i.e. upto 1999. I have submitted an amendment which will be taken up later. The advisory board has been constituted and it must be ensured that smuggling is checked in the interest of the country.

An amendment to this Bill was brought two years ago. At that time also, I got an opportunity to oppose it. It is not proper and it does not behove the Parliament to bring an amendment time and again and extend the provision of the Bill. It is the United Front Government now. Previously they had been opposing such amendments. But now when it is their Government, then why are they bringing such amendments. You want to enter the twenty-first century. Therefore, the Government should not bring such amendments time after time.

Madam, because our former Civil Aviation Minister has welcomed the Bill, I too welcome it. But I would like to submit that it has not achieved the desired result in the country; it has increased the political criminalisation. You will kindly excuse me. I don't remember as to which party you belong but there are many Congress Members of Parliament who are involved in smuggling. I can't reveal their names here, but Madam, if you so like I can give their names to you personally. They indulge in smuggling and also fight elections. Fortunately, our Laxminarayan Pandey Sahib is present here. His area is adjacent to my area. There, smuggling goes on in Mandsaur, Jhalawar and Chittor. Last time also there was smuggling to the tune of twelve thousand crore of rupees. I would like to submit here that in this matter no cooperation is coming forth from C.B.I. Anti-smuggling efforts are not very effective there. The reason is that the Inspector posted in Mandsaur, Jhalawar and Chittor becomes prosperous himself and makes others also prosperous because he makes much money from the smuggling going on there. As no transfer takes place in Customs and Excise Departments, in C.B.I. also, transfer is difficult. Strong measures are required to be adopted there.

The Government has said that gold and silver can be brought here openly from abroad to check blackmarketing in these two items in the country. In my view, in spite of this exemption, you confiscated gold worth 502 crore of rupees in 1992 and in 1990-91, it was of the value of Rs. 474 crore. Therefore, if you want to say that the exemption can stop the smuggling of gold and other things into the country, you are wrong. In this country, other items will also be smuggled. Madam, I have to make another submission also. In this country, if a farmer engages himself in opium cultivation, he is sentenced for ten years and if some smuggler is apprehended, he is sentenced for two years. This is very strange that if a farmer starts opium cultivation, he is sentenced for ten years while the smuggler has a field day in the jail. As a matter of fact, what happens is that he lives in his own House, he sleeps there, goes to see movies, and in jail also, he is allotted a good room, he witnesses television, listens to news, reads newspapers and after having best of the time, returns home after two years. Now, if there is anybody indulging in smuggling in the United Front Government, you just keep the provision of two years. And our Prime Minister also is great admirer of farmers. He says that his Government is pro-farmers. You should extend benefit to the farmers and increase the period of sentence for smuggling.

I am not in favour of smugglers as they are enemies of the country. They have become members of the mafia group. They indulge in smuggling of "hero" and heroin....(Interruptions) What I mean to say is that they indulge in smuggling of arms and ammunition as also of heroin. They should be awarded more sentence. Pakistan border is adjacent to our country as also the

border of Nepal and occupied Kashmir. They enter our country and supply arms and ammunition here. The Kashmir problem is still there, camps are being established to impart training to the terrorists and there are intrusions into Indian territory daily. The Government should pay attention towards all these matters.

Madam, I had submitted last time that six persons from my constituency Jaipur and some persons from Allahabad had gone to Jammu & Kashmir as tourists. After the "darshan" of Vaishno Devi, they went to stay at a hotel. At the hotel they were approached by a person who asked them about the places they had visited and added that if they had not seen the lake, they had seen nothing. He further added that there was peace over there those days and thus enticed them away to the lake. These tourists even told that they had no money with them but they were given five thousand rupees and taken to see the lake. When the tourists reached there, they were asked the religion they belonged to. When they told that they were Hindus, they were told that a statue would be placed before them and they have to make it move. When they told that the statues do not move, they were asked as to why they believe in God and why did they go to Ayodhya for the sake of Rama. Why did they raise a storm there and destroyed Babri Mosque. And after saying all this, all of these six persons, including a student of Rajasthan College and an M.R., were brutally murdered and their corpses thrown into the river. This is the situation prevailing over there. The Home Minister makes a statement that nobody should go there for excursion. When Kashmir is our integral part and you are coming out with an economic package for Kashmir and declare elections for that State. This shows that peace has been established everywhere there. Then what wrong was there if some boys of poor family went there. These boys were of the "Mian" caste. I have visited their home and got the statement with me. Just one reading of the statement will make you weep. They have left behind two little girls. Madam, in my view, this is all because of smuggling. If you want to ensure that there is no danger to the security of the country, you have to deal with the smugglers with strictness. What I want to submit is that the farmer engaging himself in the opium cultivation is not getting remunerative price in the country while he gets very good price in the international market. Marijuana, hashish and opium are being smuggled through the borders of Rajasthan, Madhya Pradesh, Nepal and Kashmir. The youth are being imparted training and sent into the country with the lethal weapons. This is jeopardising the security of the country. If you extent it only by three years, do not seek advise from the advisory board and do not make this law a permanent one, then there will be no use of this law.

What I mean is that whatever concessions you are extending to smugglers, you should instead give those concessions to the farmers. If the opium market is fully made available in the country and remunerative price is

given to the farmers. then in my view the persons coming from Pakistan for purchasing opium here will find no opium. Opium is used in medicines also. You must have seen that small doses of smack are available these days and the youth of the country are addicted to smack. Shri Santoshji may be in the know of it. Young people drive their vehicles under the intoxication of smack...*(Interruptions)* I did not say about you. What I said is that you may be in the know of it. Kindly excuse me. you are my leader. If I have said something, I seek your pardon.

My submission is that in this way the youth of the country have gone adrift. You should make efforts to put them on the right path. I would like the Government to conduct a survey as to the quantity of arms and ammunitions smuggled into the country, the number of smugglers apprehended and the number incarcerated. The smuggling of arms into the country has put the security of the country in jeopardy. I would, therefore, submit to the hon. Minister that extending the period by three years will not suffice. On the other hand the law should be enforced strictly and the two years sentence to the smugglers and ten years to the farmers being awarded at present should be reversed. The smugglers should get more punishment and should not be given any facilities in the jail. They get facilities because they donate money to the Congress party and also become the candidates of the Congress Party. When it gets money in this way, the Congress Party thinks that let the country go to hell. One who does not care for the country, one who does not care for Mother India...*(Interruptions)* I think, only the Congress party people say that they have nothing with them ...*(Interruptions)*. They have nothing to do with the smugglers, they have not seen even their face...*(Interruptions)* I am not saying about you. You have been returned as an hon. Member of Parliament...*(Interruptions)* you will raise the question of privilege*(Interruptions)* I am resuming silence, otherwise there may be a question of privilege. I can say a little bit to the hon. Member. I submit that in the interest of the country, the smugglers should be awarded more sentence, and remunerative price paid to farmers producing opium in the country. The spirit behind the Bill is commendable but I am not in favour of the Government's tendency to come to the House repeatedly for seeking extension for two or three years. I definitely support the spirit behind this Bill. But the farmers should get benefits in the country, smuggling should be curbed, entry of weapons from abroad should be checked, the country guarded against Pakistan and the borders of our country guarded properly. The interest of the country is supreme, and not the smuggling*(Interruptions)*.

Madam, you gave me an opportunity to speak, some hon. Members listened to me attentively and some tried to disturb me. I excuse them for that, and conclude.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): I may tell for your information that the largest opium cultivation is in the area of Laxminarayan Pandeyji and

the largest number of smuggled diamonds find their way to Jaipur.

[English]

SHRI PINAKI MISHRA (Puri): Madam Chairperson, I rise in support of the Bill proposed by the hon. Finance Minister albeit somewhat reluctantly and with a great sense of reservation.

The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act has been in effect since 1974 and over a period of time this House has seen some amendments, some extensions to the said Act. It is regrettable that the hon. Finance Minister had to state in his very preamble that despite the Act being in effect for so long, despite several measures taken by the Government of India from time to time to attempt to curb smuggling, it has met with little success. And yet we come back before this House once more to extend the provisions of Section 9 for a further period of three years I think some introspection is necessary by the hon. Finance Minister.

We have some fresh blood in the Finance Ministry. It is very heartening that the hon. Finance Minister is an eminent lawyer in his own right and is therefore well qualified to take a closer look to apply his mind and to get informed opinion from not only the Ministry, but other sections of this House as well to see how and where we have failed in the application of the provisions of COFEPOSA, either in it not having enough teeth or in it not having been efficaciously implemented them in the past which has resulted in the unabated rise of smuggling as well as the unabated squandering and parking of our foreign exchange reserves abroad.

The very spirit of COFEPOSA which is a preventive detention law is repugnant to the rule of law as embellished in the Indian Constitution which is the *sine qua non* of our democratic society.

All preventive detention laws in this country have been frowned upon. We have memories of MISA and other preventive detention laws which have, from time to time, been promulgated. They have been frowned upon by all the informed sections of the society.

This is a preventive detention law relating to economic offences, which has however been universally regarded as a salutary piece of legislation. It has been universally commended and supported whenever it has been raised in this House. The hon. Minister of Finance is right in saying and other hon. Members have shared his opinion - that the provisions of COFEPOSA have been enacted as a piece of deterrent. It has, for some time, proved to be a strong deterrent. However, in the liberalised atmosphere, which we have ushered into this country since 1991, provisions such as COFEPOSA, perhaps, are anomalous. This is why we have seen a rapid decline in the number of detention orders passed under COFEPOSA in the past three to four years. It is

quite clear that the *raison de etre* of this piece of legislation has not lived up to its desired impact. Therefore, we have to take a closer look at the mindless extension of Section 9 for a further period of three years to one or two more selected areas. We need to look not only at the area of operation as envisaged under Section 9 but also at the nature of the goods sought to be dealt with and the nature of offenders sought to be dealt with and such other issues. And for that, while I support this Bill, I would earnestly beseech the hon. Minister of Finance to kindly bring out a comprehensive piece of legislation at some future date, which would meet the changing demands of our times.

From 1974 to 1996, a lot of water has flown India has changed beyond measure. Since 1990-91, in the era of liberalisation, we are no longer in the closed economic society that we were during the 1970s and the 1980s. Consequently, I feel that a closer look at COFEPOSA should be taken by all concerned on the following lines.

In my experience as a lawyer who has dealt with COFEPOSA cases from the time I started practising, I have to my credit several quashings of important COFEPOSA orders. Therefore, sitting on the other side of the fence, as lawyer, I happen to realise the kind of lacunae that this piece of legislation suffers from. As a Member of this august House I feel that it is my duty to point the same out and to implore that enough diligent attention should be paid to plug the same. Over the years, if statistics are looked at, that is if you look at the number of COFEPOSA detention orders passed and the nature and characteristics of detainees, you would find that - I am sure the hon. Minister of Finance would bear me out - it is normally the carriers who are caught in the net. The big fish are seldom caught in the net. As we see in the films, the big fish stay in their plush residences. From their drawing rooms, with sophisticated gadgets, they monitor the process of smuggling and it is really the poor carriers who are caught either at the airports or at the ports, due to the efforts of some intelligence network. It is normally the carriers who are caught.

These carriers work for a pittance. The carriers, in most cases, are paid no more than a fraction of the profits. At times, it is .5 per cent. or .75 per cent. It never goes beyond one per cent. They actually operate for the airline ticket plus. Their actual expenses which would be Rs. 2,000 to 3,000 and a reward of Rs. 5,000, Rs. 10,000 or Rs. 15,000 where the entire cache, which is sought to be smuggled, is in excess of Rs. 50 lakh, Rs. 1 crore or Rs. 5 crore and the profits are extraordinarily high. Even if these caches are caught, if the carriers keep quiet, the owners or the financiers are able to write off their losses and carry on. They do not mind losing one or two caches because they are in a position to earn such extraordinary profits that they can carry on their activities in future even if they lose a cache or two. Therefore, in my opinion, if COFEPOSA orders are going

to be passed on poor people, who are carriers, while the actual financiers and the big offenders go scot free, it loses its efficacy. That is what has unfortunately been happening.

The carriers never open their mouths during interrogation. They know that if they go in for three months, four months, five months or six months before the Advisory Board quashes their detention order, the financiers will look after their families. And when they come out of jail, they are well looked after and given a little supplemental kind of reward for having kept quiet. Therefore, we have to make certain salutary principles and provisions in the law which will distinguish and differentiate between the actual offenders, which is the principal class of offenders, who are the financiers and the big fish and the poor carriers who are doing this really to earn a two-square meals a day and to somehow ske out a living.

He does not like doing it but because there is rampant unemployment, he finds that this gives him some quick money. Therefore, he falls a pray for this kind of petty rewards. For that, I would recommend to the hon. Minister that while for carriers, there could be two strikes and you are out kind of law, as we have in California now the three-strikes out law, under COFEPOSA, we could have two strikes out. In the first instance, while the carrier goes in for a year under section 3 or for two years under section 9, it should be made clear that in the event he is caught second time around, it would be far more stringent. He would go in for two years under section 3 and probably for four years under section 9. That would be a deterrent measure for carriers.

As far as the principal classes of sponsors and big offenders are concerned, it is found how they are really the ongoing offenders. I humbly submit that section 3, which envisages one year and section 9 which, at the moment, has two years, detention it is simply inadequate. In my opinion, two strikes out for the carrier should apply for the first strike or the first offence, by the big offenders and section 3 and section 9 should be modified accordingly. It should at least be two years in the case of section 3 and three years in the case of section 9 which would ensure that there is a certain amount of salutary deterrence involved because otherwise section 3 detention order for one year is normally quashed within the first three or four months by the Advisory Board.

I will come to that just in a moment as to why it is done. Even the big offenders have no real fear. My learned friend from the BJP did not understand the concept of preventive detention because while we once go under COFEPOSA, under preventive detention, you will simultaneously face prosecution and there the sentence is liable to be ten years or more. Therefore, when he said that for *Ganja* while farmers are facing a sentence of ten years, for smuggling, they are facing sentence of two years, this is not quite correct. This is a preventive

sentence. The effective sentence is likely to be much more. But unfortunately because of the dilatory system of courts, the prosecution takes very long and on that account, preventive detention is really a salutary measure.

Therefore, my first suggestion is that we should classify the offenders and ensure that the big fish gets segregated from the small fish and for the big fish, COFEPOSA should act as a salutary deterrent.

The second suggestion I would like to make to the hon. Minister which has been made by some of my friends in the House including Shri Gadhi, is that in the post-terrorism era in India, the kinds of goods which are being smuggled in are no longer any gold, silver, bullion, and foreign currency. The nature of smuggling now encompasses RDX and deadly weapons. Therefore, there should be different provisions for the nature of goods being smuggled. While white-collar crimes envisaging gold or such like commodities may be dealt with as one class, certainly RDX and deadly weapons and such like commodities which are being smuggled in on a daily basis should be dealt with entirely separately. There should be far more stringent punishment. Again, one year under Section 3 and two years under Section 9 is simply inadequate for this. Therefore, this second suggestion may be looked into that with the nature of the goods being smuggled, the nature of the punishment being meted out should be concomitant.

My third suggestion is, the catena of cases of COFEPOSA over the past years has shown that detention orders are being quashed on bizarre and flimsy grounds. I say so advisedly. What are the grounds? It is a technical law, a hyper-technical law, actually. The grounds are sometimes as bizarre, as absurd as illegible copy is being given to detainees as representation not having been considered at the earliest possible opportunity. According to me the legislation which should be forthcoming now it should ensure that we should distinguish between procedural grounds of quashing and substantive grounds. As far as the procedural grounds are concerned, we should build in safeguards in the Act and the Rules read thereunder which should ensure that in the event, for instance, scrutiny of documents is required by the detainee or his lawyer, that should be allowed on request. What happens nowadays is lawyers do not even request for documents but simply because the Department is overworked. They are not in a position to give all the documents. Sometimes even if one document is left out that is a ground enough for quashing. Therefore, these kinds of procedural and technical grounds should be ruled out by legislation so that the courts then do not pass one page orders which sometimes simply say that in terms of the well laid down law, the documents supplied to the detainee are illegible and, therefore, the order is quashed. This does not make any sense. After all a lot of effort has gone on the part of the Department. In apprehending these

culprits, and if the offenders are going to be left scot-free on simple technical and procedural formalities, in my opinion, the *raison d'être* of the piece of legislation is lost. Therefore, the substantive grounds of detention should be set apart. Those should be grounds on which the courts can quash detention orders but not the procedural grounds. It should be built into the legislation itself to ensure that courts then do not have the discretion to look into these aspects.

The fourth suggestion I have in this regard is, again it is the big fish who often find out about the COFEPOSA orders which are in the offing.

I will take two more minutes, Madam, Chairperson. I know you are looking a little impatient. I am making some substantive suggestions which would probably go to strengthen the piece of legislation.

MR. CHAIRMAN: Undoubtedly. That is why I did not stop you, but you are going too far as far the time limit is concerned.

SHRI PINAKI MISHRA: I will take just another two minutes

The fourth point I wish to make is that the rich offenders often find out in advance that the COFEPOSA orders are being passed against them. They go underground, various stay orders are obtained from various High Courts. In fact a particular stay orders are obtained from various High Courts. In fact, a particular High Court, Madam, Chairperson, you would be well aware, was well-known as a stay court because any detention order passed anywhere in the country would go to that High Court and would be stayed automatically. Therefore, I suggest that the provisions of a law like SAFEMA which is again a piece of legislation which is extremely deterrent, which provides of the automatic confiscation of property of a detainee who is absconding, should be given more teeth. It should be applied far more rigorously to ensure that COFEPOSA detainees are immediately apprehended. If they stand to lose their properties which are built from this ill-gotten wealth then they are likely to surface much faster.

I wish to raise one last point. Unfortunately the hon. Finance Minister is not consensus ad idern with me on this ground. I heard him on television the other night that he has no belief in Amnesty scheme and that he does not believe that these schemes would bring much good to the country.

SHRI P. CHIDAMBARAM: I am against converting black money into white money.

SHRI PINAKI MISHRA: Precisely. On that score I beg to disagree with the hon. Finance Minister with the greatest respect because in the event that provision is incorporated in a legislation like COFEPOSA, and in the event of clean breast made by the offender, the sentence can be reduced. In the event the offender decides to speak the truth, decides to make a bold and frank disclosure about either the properties or the assets

held, or properties and assets gotten from the ill-gotten wealth, there should be a Scrutiny Committee, which is at the moment a very hazy one. That Scrutiny Committee should be made more transparent. That Committee should be within its rights to have a fresh look at the detention order, and the detainees who get the sentences of two or three years, if they feel better to part with the loot rather than spend time in jail. I hope that would help to augment the Government resources and in my opinion bring down crimes also.

I thank you for the opportunity given to me. I hope the hon. Finance Minister will take into account these points raised by me in this House and ensure that some of them can be incorporated in some future piece of legislation.

SHRI P. CHIDAMBARAM: Thank you, Madam. I am grateful to the hon. Members for the support they have extended to the Bill. The amending Bill is a very short piece of legislation. All that we intend to do is to continue a provision which is there in the Statute to detain a person for an extended period without going to the Advisory Board; to extend the period by obtaining the opinion of the Advisory Board; and for an extended period for detention. There are, of course, two views. One view is that why do you not make it a permanent feature of the Statute and the second view, as expressed by Shri Girdhari Lal Bhargava, is that why do you extend it for three years; it should be extended for two years. So there are always two views on a matter like this. But please let us remember that a law on preventive detention is an exceptional law, which is sustained only under article 22 of the Constitution. It is a preventive detention law and therefore must be very narrowly and tightly framed and it must be exceptional in dealing with the exceptional situation. Otherwise, the law will be struck down by the courts. One of the reasons why we have not declared the whole country as highly vulnerable is that that would appear to be a mindless extension of a narrow law to the whole country. That is why we have carefully defined the highly vulnerable area and we have to include only areas which are really highly vulnerable. Besides, we cannot keep such a law permanently on the Statute Book. It is not our intention to have law of permanent detention on the Statute Book. These laws can be brooked only for a short period of time and should be periodically reviewed so that if the situation improves, we can certainly take these laws out of the Statute Book.

We have had this particular legislation since 1984, we have extended it for three years at a time and therefore, I have come to this House to seek an extension for another period of three years.

A number of important questions were raised, particularly by the last speaker. I wish to respond to them very very briefly because there is another Bill which I would like to be passed today.

Madam, what does this Bill aim at? This Bill aims at smuggling. This Bill was placed in the Statute Book at a time when the economy was a fairly a closed economy. We were not allowing goods to come in. We did not have any kind of convertibility of the rupee.

14.00 hrs.

Therefore, at that time, conservation of foreign exchange and prevention of smuggling were viewed in a particular light. Now, I have tried to collect a list of goods which are smuggled or sought to be smuggled by persons against whom this Act is aimed. What do we find? What we find is gold, silver, electronic goods, and foreign currency. Those who deal with compensatory payments in foreign currency, they smuggle foreign currency. These are one set of offenders.

The second set of offenders are those who abuse the import-export policy, particularly, the duty free licenses like VABAL and QBAL. What is the thrust of my argument? The thrust of my argument is that all these are in same manner related to the fact that we have quantitative restrictions on goods. Suppose we allow gold to be imported freely into this country, then nobody will smuggle gold. We made a beginning. We allowed passengers to bring in it. People who were out of the country for six months, we allowed gold to be imported through the special import licence route. This has brought down gold smuggling almost by one-half. The demand in India for gold has been estimated to be about 450 tonnes annually. I cannot change the cultural and social behaviour and habits of our people. Now, almost one-half of it comes through legitimate channels. Earlier nothing came through legitimate channels and everything was smuggled. Today almost one-half comes through legitimate channels and the other half, I am sure, comes through smuggling. But I am confident that there will be one day when we would be strong enough to say like most countries in the world, that any one who wants to bring gold can bring gold. That day gold smuggling will stop. That day silver smuggling will stop. As we remove quantitative restrictions and as we tariffify all our imports, you can have a high tariff rate for luxury goods which is called SIN TAX. But as we remove quantitative restrictions and open up our economy, smuggling will come down. That day we may not need a law of this nature.

There are another set of violators who arbitrage on currencies. It is because there are exchange rate fluctuations. There is a profitable business in arbitraging on currency fluctuations. That kind of people will always remain. They will also go the day Indian economy is strong enough to make the rupee convertible on the Capital Account. That day is not today or tomorrow, maybe, it is five years down the road. But thanks to Current Account convertibility, much of the violations of foreign exchange transactions have come down. It is because, today, people can take foreign exchange for travel; they can take foreign exchange for education;

they can take foreign exchange for medical expenses; and they can take foreign exchange for business purposes. So, many offences relating to foreign exchange have come down.

The third category are people who are motivated by greed. We give people duty free licenses. We give them VABAL. We give them QBAL. Yet, they want to make big money in double-quick time. Therefore, they abuse these privileges and indulge in foreign exchange violations. They have to be punished and they are being punished. It is because our economy is partly open, we still need to conserve foreign exchange, and we still have quantitative restrictions on many items because there is still smuggling on these items. We have to have a law of this kind. But I do not envisage this law to be a permanent law. Five years or ten years down the road, I am sure, the economy would be fully opened. Therefore we do not need to keep these QBALs and VABAL. They will become things of the past.

There are other smugglings which take place in arms, drugs and so on. That has to be dealt with by separate laws. But I think the present amendment seeking extension of three years is adequate and will take care of the present situation. I am not happy with the way the courts and Advisory Boards are dealing with detention orders. I agree with my learned friend. The orders are being struck down on what appears to be trifling grounds.

But then the fault is ours. Why do we make orders which can be struck down on specific grounds? If the order is struck down on the ground that you gave an illegible copy, then the fault is of the officer who gave the illegible copy. In a day when photocopying has become very advanced why should we give illegible copies?

There are other tricks to which these people resort to. Somebody comes and thrusts a petition in my hand and I collect half a dozen petitions then I go. But this petition could be by the wife of a detenué and if this petition running into hundred pages is in a language other than English or Hindi and it has to be translated then you take about two to three weeks to translate this petition. Then the Advisory Board is likely to strike it down by saying that you took longer to deal with the petition.

There are problems. We go one step ahead of the smuggler but the smuggler is one step ahead of us because he is smart enough to find loopholes in the system. We are trying to plug it. I intend to review this whole matter. I am not happy with the percentage of orders which has been struck down.

I find that the courts, tribunal and Advisory Boards are striking down almost 60 to 65 per cent of the orders which are made, which is one of the reasons why more orders are made because then everybody wants to show that his department is very active. So, I think, we need to take a look at these matters. For the time being I

would urge the hon. Members to support these amendments and pass this Bill. I will review the matter. I will try to see what we can do to tighten the provisions to act against smugglers.

SHRI V. DHANANJAYA KUMAR: Sir, what about the preventive measures in coastal areas?

SHRI P. CHIDAMBARAM: Again, as I said, as long as we have QRS and restrictions there will be smuggling. But the answer is no country has a fool-proof system against smuggling. Arms and drugs are a different cup of tea. On them we must come down ruthlessly. We will never allow arms, we will never allow drugs, no country does it. But all other matters must be dealt with through reframing and liberalising economic policies. Until we go to that stage, we need to be vigilant. I will be vigilant and will review the entire matter. I will review the entire subject but in the meanwhile I would request the hon. Members to pass this Bill.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up clause by clause consideration of the Bill.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Madam Chairperson, the hon. Minister has said many good things here and I am confident that Government will not bring forth any such bill in the House seeking further extension of the period. As I have to ask for financial aid for Rajasthan from the hon. Minister, it goes against the interest of my State, if I do not listen to him, I, therefore, reluctantly withdraw the amendment. (Interruptions). I am withdrawing it with the permission of the House and at the behest of the hon. Minister.

[English]

MR. CHAIRMAN: Is it the pleasure of the House that the amendment moved by Shri Girdhari Lal Bhargava be withdrawn?

SEVERAL HON. MEMBERS: Yes.

The amendment was, by leave, withdrawn.

MR. CHAIRMAN: The question is:

"That Clause 2 stand part of the Bill"

The motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN : The question is:

"That Clause 1, the enacting formula and the titles stand part of the Bill."

The Motion was accepted .

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

MR. CHAIRMAN : Now, the hon. Minister may now move that the Bill be passed.

SHRI P. CHIDAMBARAM : I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

14.10 hrs.

PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) BILL

[English]

MR. CHAIRMAN: Now, the House will take up Item No.18.

THE MINISTER OF FINANCE AND MINISTER OF COMPANY AFFAIRS (SHRI P. CHIDAMBARAM): Madam Chairperson, in recent years, India has been facing a serious problem of illicit traffic in narcotic drugs and psychotropic substances. Being sandwiched between the two major sources of narcotic drugs, that is, the Golden Crescent consisting of Pakistan, Afganistan and Iran on the one side and the Golden Triangle consisting of Myanmar, Thailand and Laos on the other, India is highly vulnerable to transit traffic. Even though a number of legislative, administrative and preventive measures have been taken in the past, such as the deterrent penal provisions in the NDPS Act, 1985 and the provisions for preventive detention under the PITNDPS Act, 1988, illicit traffic in narcotic drugs and psychotropic substances continues to be a serious threat.

The PITNDPS Act provides for two types of cases in which persons engaged in organised drug trafficking can be detained. The first relates to orders of detention issued under Section 3(1) of the Act, wherein the maximum period of detention is one year. After a person is detained, the case is referred within 35 days to an Advisory Board consisting of three High Court Judges for their opinion. If the Advisory Board recommends that the detention is not justified, the detainee is released forthwith. In other cases, the detention orders are confirmed within 90 days.

The second type of cases relates to cases of persons engaged in drug trafficking in areas categorised as "highly vulnerable" under Section 10 of the Act. These

areas include the International Airports, Sea Ports, International borders with other countries, coastal areas, etc. If the Competent Authority issues a declaration under Section 10 of Act to the effect that the person is engaged in illicit trafficking in a "highly vulnerable area" the maximum period of detention is increased from one year to two years, as per section 11 of the Act. In such cases opinion of the Advisory Board is required to be obtained within six months of detention, instead of the usual period of three months.

Past experience shows that provisions of Section 10 of the Act has been a strong deterrent to drug traffickers.

(MR. Deputy-Speaker *in the Chair*)

It is, therefore, considered necessary to continue the provisions of Section 10 of the Act in respect of detention orders which may be issued even after 31st July, 1996, for a further period of three years.

Mr. Deputy-Speaker, Sir, just now the hon. Members were pleased to pass the Bill containing a similar provision in the COFEPOSA Act. This provision is similar to that. We wish to extend the provisions of Section 10 for another period of three years so that in highly vulnerable areas, the detention could be for a period up to two months and the Advisory Board's opinion could be obtained within six months.

With these words, I beg to move:

"That the Bill further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, be taken into consideration."

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, be taken into consideration."

MR. DEPUTY-SPEAKER: Now, I call upon Shri Laxmi Narayan Pandey to speak.

[Translation]

DR. LAXMINARAYAN PANDEY (Mandsaur): Mr. Deputy Speaker, Sir, the present Bill is regarding penal provisions. Through this Bill, the hon. Minister has brought forth new provisions for prevention of illicit traffic in narcotic drugs and psychotropic substances. He has tabled amendment to Section 10 and sought an extension of three years. In this connection, I would like to submit that merely by extending the period, the problem cannot be solved. On the other hand if the persons empowered to take action under the penal provision of the Act, enforce these provisions strictly, only then this problem can be solved. It has been seen that the officers concerned make misuse of these provisions and it has also been seen that the officers in the course of time try to implicate such people as