

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

have no concern with these things. It is right to have penal provisions but they should not be put to misuse. The hon. Minister has said that the Bill has same type of clauses as in the previous Bill just passed by us.

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 provides for preventive detention of the persons indulging in this illicit traffic. It has been provided in the amendment now brought forth that Section 10 of the said Act should continue for further period of three years after 31st July, 1996.

The Bill we have passed just now, embodied similar provisions and was endowed with the same spirit. My submission is that the drugs which have been referred to must be banned and action taken against the persons violating the law. But after all, what happens? There are seventy thousand opium-growers in my constituency. The officers, with a view to fulfil their own interest, implicate these farmers many often in small cases. The officers misuse their powers. Whether it is opium factory, or alcohol factory, the officers there sometime relax the control and sometime utilize their influence and allow tonnes of opium to slip from the factory and no action is taken against them. About two tonnes of opium disappeared in one lot from Neemuch Opium factory and till date the *modus operandi* is not known, neither its destination nor the persons involved therein. I can say with certainty that this can be the result of connivance between the officers and the criminals.

The same situation obtains in the alcohol factory providing morphine and codaine. By providing codaine in the country, we are saving a lot of foreign exchange. We want to increase the promotion of codaine. We have started two shifts in the factory. Presently it is running two shifts. But if some technician pinches morphine from that factory and no action is taken against him, then it is a teanesty of justice. You are going to punish the farmers but are not taking any action against these pilferers. I have invited the attention of the hon. Minister towards these incidents and requested him to take action in the matter.

Mr. Deputy Speaker, Sir, I would like to make one more submission in this regard. In case the Government takes a policy-decision in this matter, the Government should always discuss the matter with the people's representatives of those areas - Shri Jatia's constituency falls in that area though at present he is not here. Similarly, the constituency of Shri Jaswant Singh, Vansudharaji and Dau Dayal ji also falls under that area. Whatever areas fall under opium growing region, the Government should call the representatives of those areas for discussion, otherwise there is every likelihood of many flaws remaining in that decision.

Sir, on the one hand the Government says that such a huge stock of opium has accumulated with it that it is not in a position to consume it and on the other hand Government talks of issuing new licences. Last year,

many licences were issued to the people and it was said that the Government had entered agreements with foreign countries. I would like to know from the hon. Minister as to what was the quantity of opium regarding which agreements were entered? What was the basis for issuing new licences? Whether any procedure was followed therefor or not? I understand that the officers of those areas issued licences arbitrarily on the condition that 45 kilogram per hectare opium produce has to be deposited. But the cultivators were unable to produce and deposit the required quantity of opium. Therefore, if Government gives incentive to the farmers already engaged in opium production, the farmers who have good land, good walls and against whom no changes have been levelled, the Government will be benefitted. The Government should issue licences to those new people also who have good land, irrigation facility and who have full knowledge of opium cultivation.

Mr. Deputy Speaker, Sir, as I have already submitted, the Government should take into confidence the representatives of the concerned areas while making a policy-decision. This will result in more benefit. My other submission is that on the one hand Government says that we have to reduce the production of opium, and on the other hand Government maintains that the production of opium in the country is more than that in foreign countries. Why was the production allowed to increase in the first place and why do the Government propose now to reduce it? The two observations do not reconcile. I would like the Government to clear this point.

The production of codeine and morphine is important for us. We have a factory for their production in Neemuch. We use these two products in medicine. In this connection, Sir, I would like to submit that machinery worth crores of rupees is lying idle in this factory as there is some defect in this machinery. Although technicians and experts having knowledge were called for from Germany, yet the defects could not be removed and it is lying still idle. Crores of rupees were spent to make this machinery operational but to no avail. It will certainly be advantageous if the Government pay attention towards the points raised by me here.

Mr. Deputy Speaker, Sir, the policy of the Government to curb smuggling sometimes prove conducive for the spread of smuggling. Every year licences for the sale of poppy husk, after the chultivators have extracted opium from poppies, are issued but this year no licences were issued with the result that poppy-husk was lying undisposed of in the Houses of the cultivators. If he keeps the husk in his House after 31st July then it is a punishable offence. On the one hand the farmer cannot sell this husk in the market in ther absence of the licence and he incurs loss to the tune of lakhs of rupees, and on the other hand he is questioned as to why did he keep the husk at his House. The licences are not being issued and the Government is also losing revenue. In the circumstances, the farmer is constrained

to dispose of the husk clandestinely. He avoids being questioned as to why he kept the husk at his House and as such committed an offence. When there is the practice of issuing licences, why they are not being issued? I have already invited the attention of Government toward this.

Our officers, whether they are Narcotics Inspectors or Deputy Commissioners, should not misuse their powers. They should make proper use of their power so that smuggling does not take place. The big sharks engaged in smuggling, whether heroin, or morphine or opium, get scot free but even if one gram of opium is found in the House of a farmer, the innocent fellow is implicated.

As I have already submitted, steps should be taken to set right the mismanagement of the alcohol and opium factory. The working of the factory should be improved. Thefts from the factory should be stopped. If tonnes of opium is stolen therefrom and no action is taken against the culprits, it certainly means that innocent people are implicated and get punishment. This is not proper. There is no bigger crime than this that the morphine is pilfered from the factory. I would like the Government to check it and take action against the guilty officers.

Mr. Deputy Speaker, Sir, the Government has spoken of the advisory board. All matters should be referred to them and they should be disposed of expeditiously. This is nice. I am not opposing it. The stricter the punishment, the better it will be. But the innocent farmers should not be implicated; their woes should be removed and a definite policy framed in relation to the production of opium so that the farmers know as to how much opium they have to grow. Many often, there is frost, many times there is cold wave, many times there is hail-storm and many often such type of diseases affect the crop that the farmers are unable to produce the fixed quantity of opium. These are the woes of the farmers of my area. One can go and visit the fields. The farmers are the victims of natural calamities. The officers do not go and stay there for 15 to 20 days to have a first hand knowledge. In the meanwhile, the farmer is reduced to nothing. The farmer is asked to destroy the entire crop. This results in the loss of crores of rupees. This arbitrariness should be stopped. I would like to emphasise again that the people's representatives should be consulted in this regard. The difficulties of the farmers should be looked into. The farmer is ready to deliver his produce at the rate of average. The Government posts tens of constables, sub-inspectors nearabout the fields and they are keeping a constant watch and they get the delivery of the opium produced there. This produce comes to 40 kilograms and the farmer is blamed for this low produce. But wherefrom will the farmer deliver forty-five kilograms of opium when the opium produced in the very presence of Government's men stationed there comes to forty

kilograms. Wherefrom the farmer will make good the shortage and bring it upto the fixed quantity of 45 kilograms. This means that the farmer should purchase in the blackmarket in anticipation of this uncalled for situation. He is encouraged for this and the offences are in league in this matter. The officers themselves say that they would make good the shortage and that the licence would not be cancelled. Government should check all these maladies. I have tried to dwell upon almost all the matters connected with this narcotics law though they don't form part of the small amending Bill presently before us. I have done this so that the Government have full appreciation of the things required. Mr. Deputy Speaker, Sir, the concerned officers are instrumental in causing brawls also. I myself saw that an officer parked his vehicle outside a mechanic's garage. The mechanic saw there was opium in the dicky of the vehicle. He told that officer to take his opium also with him. Had he not seen, then perhaps he might have been branded a thief. There should be control over the persons doing this.

Mr. Deputy Speaker, Sir, there must be penal provision in the law but the suggestion made by me must also be taken into consideration. The genuine difficulties of the farmers should be resolved. The Government should call for people's representatives while framing the policy. The opium average being fixed by you for the coming crop should not be more than forty kilograms per hectare. The price of opium should also be increased. New licences should be issued on the basis of proper method to be used in the cultivation and production of opium so that the desired quantity could be produced. The suggestion of the people having practical knowledge in this regard should also be obtained.

Mr. Deputy Speaker, Sir, insofar as agreements with the foreign countries are concerned, I would like to know the nature of these agreements, the quantity of opium to be supplied and, to fulfil the requirements under these agreements, how many new licences will be issued in Mandasaur and Ratlam, and the number thereof in Uttar Pradesh.

With these words, I conclude.

[English]

SHRI A.C.JOS (Idukki) : Hon. Deputy Speaker, Sir, this Bill which the hon. Minister has brought here, is very technical in nature. The section also is very technical, which says that the present Act which is in force, is valid only up to 31st July, 1996. Through this Bill, the hon. Finance Minister is seeking only to extend that period.

I do not want to take much time of this august House, but I have a complaint that the hon. Minister is making only piecemeal legislations in this regard. The main Act itself is of 1988. Almost eight or nine years have passed and during this period, various novel methods can be prevented by the existing law. So, my

request to the hon. Minister is that he should bring a comprehensive legislation.

As my friend has said, for preservation of foreign exchange also, we need a comprehensive legislation, but in this case we need a more serious and comprehensive legislation. India is geographically placed in a very difficult situation. On three sides, it is surrounded by sea and on one side, as the hon. Minister himself has stated in his introductory remarks, it is surrounded by some countries which are more vulnerable to these things. The Himalayas are very near to Myanmar and other places.

The illicit trafficking of the drugs and other goods can easily be carried out or rather it can be placed in storage in these areas. We have to have a very serious thinking about it. I am not belittling it when I say that by smuggling of gold, goods and other materials you may be losing financially or pecuniary and other things; but by this you are losing the health, the character and the youngsters are being spoiled. More serious look and view have to be taken into it and a comprehensive study has to be gone into. I do not still understand why it is said so in the Section 10 of the Act, which makes certain places vulnerable. Why should it be? All places are vulnerable. It is not that only the places where people have been caught or arrested are places of vulnerability and others are not. It is said here and I quote:

"...is likely to engage in illicit traffic in narcotic drugs and psychotropic substances into, out of, through, or within any area highly vulnerable to such illicit traffic and makes a declaration to that effect within five weeks of the detention of such person."

The highly vulnerable places are enumerated in this Bill. If a person is caught with tonnes of drugs from these vulnerable places he cannot escape and he will be caught. I agree with you. But this section will not be applicable to other places.

SHRI P. CHIDAMBARAM : It is in the extended period. It will apply for one year.

SHRI A.C. JOS : In this case a person who is not in the vulnerable area and who is not caught in that non-vulnerable area, if he is engaged in illicit drug trafficking, what will happen? Every spot in India can be like that. Especially it is so in Manipur and the North-Eastern boundary areas which are rather close or adjacent to other countries - like Myanmar - as my friend is from that side.

My submission is that irrespective of vulnerability or not it should be the same. Why should we speak of vulnerability of an area in this country? That may be good for smuggling purposes. But in this case you have to use a common standard wherein it is said any place in this country is equally vulnerable.

So, my request to the hon. Minister is that instead of having a very technical view in this matter he should consider the above. I do not understand as to what is

the logic behind this vulnerability and non-vulnerability. We have to look into this.

Another thing is that ours is a democratic country and we have rule of law and every citizen should be given protection of law and everything is agreed. But in certain cases we dispense with the procedure or Civil Procedure Code and Evidence Act so that the onus of proof is on the side of the accused. Even in cases of protection for Scheduled Castes and Scheduled Tribes, if an offence is committed against a Scheduled Cast the onus of proof is on the side of the accused and he has to prove the case. In other cases it is the other way round. Accordingly, if such things can be given such a deterrent and very serious look, the illicit trafficking of drugs and psychotropic substances should be given more serious thinking. The onus of proof should be on the side of the person, on the side of the accused in that case.

In nutshell what I am saying is that we have to have a very comprehensive and detailed thinking in this matter now. My friend here is also saying it. There are very many loopholes in this. Smuggling is going on. A number of cases are caught; but in a number of cases the people are escaping as in the case of smuggling it is the carriers who were caught and whereas the monitoring people, the real smugglers with all sorts of modern gadgets sit at home and control the smuggling. The carriers are caught, especially in the present scheme of liberalised rules of bringing foreign exchange.

More people are going and coming everyday. They become carriers. They are taking only very little quantity of drugs with them and can hide it anywhere they like. So, my request to the hon. Minister is that we have to have a very close look into these matters.

A number of Committees are there. I have gone through one or two Reports also, but those Reports are not reflected in the present enactments, present laws that are available to prevent these things. So, all these things are to be considered. We are very slow in enacting laws as we have adopted Westminster system. In this country, we have a unanimous feeling that this is a matter which affects our nation, especially the youngsters. You may make whatever publicity against drugs, but when it is freely available near colleges and hostels, it makes all the more easy for the youngsters to develop that habit. Even now, a lot of drug trafficking and sales are going on. You should have a special cell to control this menace. In many States, there are Narcotic Cells in the police. It is also a fact that India being a very vast country, there are so many possibilities of smuggling as well as cultivation, manufacturing and all these things. For that matter, I come from a district wherein *ganjai* can be cultivated very comfortably. There are many people who are cultivating it. The police raids everyday and catches them. But with all our reliable arrangements, our law is still, more or less primitive. We need very elaborate law regarding this matter.

With these words, I support this Bill.

[Translation]

VAIDYA DAU DAYAL JOSHI (Kota): Mr. Deputy Speaker, Sir, a racket has been formed against India. A gang has been organised to live in India itself. It is unfortunate that smuggling into India from Thailand, Hongkong, Singapore and Nepal is taking place on very large scale. In the whole, opium cultivation is to the tune of three thousand seven hundred tonnes and out of this quantity, three hundred tonnes of opium is used for manufacturing heroin. Insofar as the opium cultivation and the supervision and control thereon is concerned, it was proper. But it is a matter of serious concern that the heroin, smack and brown sugar, as an alternative to opium is increasingly available in the market and India has been captured as a market for these commodities. Pakistan, adjacent to our border and I.S.I. have changed their technique swiftly. Instead of smuggling arms and ammunition now, opium, smack etc. are being smuggled, the people are being made addict thereof and their strength depleted. The brave people are being turned into worthless beings. This is a premeditated move of Pakistan. The way the narcotics are being smuggled into the border areas, is a matter of concern for the people of the country. Nobody will oppose the Bill brought by the hon. Minister. What I want to submit is that the market is overflowed with narcotics these days and the children are becoming addicts thereof. This is causing concern to the entire country. It appears that the entire economy of Pakistan is based on illegal arms and illegal drugs. Twenty-five per cent of parallel economy of Pakistan is running on narcotics. The income from smuggling in Pakistan has increased as compared to last year. It is matter of great concern. Only last year meeting of the concerned officers from India and Pakistan was held and a decision taken that proper arrangements would be made to curb the smuggling of narcotics but till date neither any arrangements have been made, nor any effective steps taken in this regard. Shri Salauddin Ahmed, who was a Major in the Pakistan army and their Narcotics Secretary also held talks with the Narcotics Secretary of our country during which Pakistan spoke of curbing the smuggling of narcotics but till date no concrete steps have been taken by Pakistan in this direction.

My submission is that whatever steps were taken to curb smuggling did not show any effective result. Consequently the number of smugglers being apprehended in the country is increasing day by day. In the year 1993 the number of narcotics smugglers apprehended in the country was 13,724 and in the year 1994 their number was 14,452 but this year their number has gone down to 13,312.

Mr. Deputy Speaker, it is generally said that a large quantity of heroin is smuggled through Rajasthan border. Only some days ago heroin worth 63 crore of rupees was seized in Bikaner. Though heroin was seized, yet the "hero", i.e., the smuggler, the owner of this heroin made good his escape. What generally happens is that

the narcotics land in the country through smuggling but the smugglers make good their escape. The heroin is smuggled into the country on camel-backs and as soon as the smugglers happen to see the security personnel, the camels are driven into the forests. The officers do catch the camels but the smugglers run away from the spot.

Mr. Deputy Speaker, Sir, in this context I would like to submit that expeditious and effective steps should be taken to apprehend the smugglers. It is well-known that marijuana and hashish is smuggled into the country through Nepal border but in spite of the fact that these commodities enter Bihar on a large scale, the number of arrests made in Bihar is negligible as compared to other States. In Bihar 126 smugglers of narcotics were arrested in the year 1993, their number in 1995 was 198 but this year only 31 smugglers could be apprehended. It is known to the whole country that hashish, marijuana etc. enter India in large quantity through the border of Nepal but it looks that there is nexus between the politicians and smugglers. They are in league with each other and because of this hashish, marijuana, opium, hemp etc. is sold in the entire country. I would like to submit that Government should take strict action in this regard.

Finally, I would like to say that there is much corruption in the work connected with destroying the seized narcotics. Although the Government has evolved a system, yet there is need for making detailed arrangements as to the quantity of seized narcotics which is burnt or destroyed. There is a need for fool-proof method and proper vigilance in this regard. I would like the Government to frame strict rules in this regard and take effective steps in the matter to ensure that there is no irregularity in the work of destroying the seized narcotics and make the department concerned quite alert and vigilant. If somebody is apprehended while smuggling heroin into the country, he is awarded ten years punishment, under the present laws and in this also, the degree of intoxication has been divided into two parts, i.e. light and strong. My submission is that strictest possible punishment should be awarded to the persons committing narcotics offence. I am of the view that if death sentence is awarded to the persons smuggling smack into the country, even this sentence would not be sufficient. If we do not frame strict laws to bring about an end to such nefarious trade, one day this will destroy the country itself. Today one will come across smack injections in every medical store of the country. There is a limit for police-raids also. The whole country is worried on the score of increasing sale of smack-injections. I would like all of us to sit together, discuss the matter and provide for strictest punishment. In this connection the Government should bring a Bill in Parliament which should be passed unanimously. The country can be saved if the persons selling smack are awarded death sentence. Smack is in a way foreign invasion of our country. We cannot be defeated in war

by Pakistan but smack can destroy the youth of our country. If the Rajputs, Gujars and Jats are destroyed by smack, the country will be on the brink of ruin. I, therefore, demand that the Government should bring forth strictest possible laws and then our party will also support you.

With these words, Sir, I conclude.

[English]

SHRI AJAY CHAKRABORTY (Basirhat) : Mr. Deputy Speaker, Sir, considering the gravity of the offence, I support the Bill which is introduced by the hon. Minister. It is a fact and it is also a matter of agony that the commission of offences related to this Act are increasing more and more. These anti-national activities should be prevented by any means and the offenders should be dealt with seriously. It is our experience that there is a powerful smuggling racket behind this offence. These rackets are powerful, economically as well as socially. Practically, some persons are engaging some agents taking advantage of their poverty for doing these anti-national acts and crimes.

The Applying Authority and the Executing Authority who are legally empowered. Before applying this Act, they should be cautious because no innocent person should be hauled up, no civil liberty of the innocent persons should be curtailed. The executive authority before applying this Act, should be cautious and the Advisory Board, at the time of review, should not take into consideration of the flexible attitude of a person. They should consider and review the matter seriously. But they should dispose of the matter as early as possible.

These things are going on in our country. They are increasing more and more in our country due to the lacunae and due to laches of some persons are vested by the law and statute to look into the matter, to prevent it and to deal with the matter and in connivance with those persons, these persons venture to do these anti-national acts.

So, the Government should be cautious and take care of the persons who are legally vested with powers to look into the matter. They should not be given an opportunity to keep or to render concessions to the culprits, to the accused and to the offenders.

The person who is duty-bound to look after the matter, if he wilfully violates his duty, he should be punished and if he acts properly, he should be rewarded. The other learned colleagues have been very much agitated. But I have not been agitated much about this matter.

Sir, considering the interests of the country, I support this Bill. I also hope that all the hon. Members are of the same opinion as I am. With these words, I conclude.

[Translation]

DR. SATYANARAYAN JATIA (Ujjain) : Mr. Deputy Speaker, Sir, we are discussing the Prevention of Illicit Traffic in Narcotic drugs and Psychotropic Substances (Amendment) Bill, 1996 here. The production of narcotics, the trade thereof and their effect is definitely ruinous. All of us must have heard about opium but are not aware of the details regarding opium cultivation. The opium cultivation required special skill and its crop comes up good in particular type of soil. Malwa region of Madhya Pradesh and Chittorgarh and Jhalawar districts of Rajasthan adjacent to it are famous for opium cultivation and have been yielding good crop year after year.

In the beginning, there was not much to be said about opium cultivation but as the technology developed, the opium trade started picking up. The situation was good till the time Government procured this commodity on remunerative price to the farmers. The opium cultivation is a very difficult job. It is undertaken with utmost care in the same very way as the parents living up there children. When the opium plants bear poppies, these poppies are lanced in the early morning and the milk starts coming out from the poppies which after becoming dense transforms itself into opium and it is collected before the heat picks up. Thereafter, the seeds are collected from the dry poppies and sold in the market and is used in many parts of the country in preparation of different types of dishes. The residue poppy husk is also sold in the market. Thus opium crop is a multipurpose crop. This crop is profitable in many ways and this is why it is called a special type of crop.

Insofar as the laws and rules governing this crop are concerned, nobody can have any objection in regard thereto. There can be objection only to the demand of an extension after 31st July 1996. In this context, my submission is that if the Government go into the root of it, certainly the things become understandable. The farmer is not getting the remunerative price and he becomes the victim of avarice and sells opium to the smugglers. This opium is not then available in the quantity of one gram or two grams to opium addicts but this finds its way to the foreign lands in quintals. Then its price rises multifold. Its by-product such as cocaine phosphate is lethal. Morphine, heroin and brown sugar etc. are manufactured from opium. People enter this trade to earn high profits. We know only the smuggling in these products but it goes on in other commodities also such as gold, silver and costly items. If the price of some commodity is less at some place and more in other, that commodity is smuggled into the place fetching high price. This tendency is very harmful. The smuggling does fetch more money but it also brings calamity, rum, misfortune and pain in its wake. Smuggling is very dangerous and the provision you have made for its prevention should be enforced strictly. The other connected things in respect of which you can take action demand that you should bring forth severe laws but you

have to be careful in the implementation thereof because in case a gram or two of opium is recovered from the House of somebody, he will get the same punishment of two years imprisonment and one lakh rupees as fine. Some person is implicated because of mutual disputes, malice and put to harm as a revenge in connivance with others. This certainly is painful. This point should always be taken into consideration that in what circumstances and how this small amount of opium is recovered. My submission is, Sir, that it is very necessary to take action to prevent smuggling and the action Government takes in regard thereto should be taken properly and carefully.

I would like to draw the attention of the Government to the fact the practice of granting licences for opium cultivation and granting lease therefor is being curbed gradually. Opium cultivation has been brought to nil in Ujjain district. The opium cultivation is done in my constituency even at present. The farmer is told to start opium cultivation in the first instance and he embarks upon this work and as soon as it is done, those very people come to inspect the area and if he has covered a row or a little bit more, then he is threatened and money extracted from him. In this way, no respect is shown to the opium cultivator. The opium cultivator is forced to bear insult.

Mr. Deputy Speaker, Sir, in this context I would like to submit that whatever policy is framed by Government in this regard, it should be ensured that there should be proper licensing system and also that the farmers should get remunerative price for their produce. The produce of opium per hectare should not be arbitrarily fixed at 45 to 50 kilograms. This should be examined and the limit fixed at 40 kilograms. Otherwise, the poor farmer has to buy the balance quantity in blackmarket and has to bear great loss. While fixing the limit the Government should take into view the situation obtaining in opium-growing areas of Uttar Pradesh, Madhya Pradesh, Rajasthan etc. Area-wise average should be worked out. Only then the farmers can get some relief. Besides, more and more farmers should be issued licences for opium cultivation. If we keep all these points in view, we will certainly be protecting the interest of the farmers. In this way the Government will be in a position to adopt strong measures against the smugglers also and consequently prevent smuggling of opium and other narcotic drugs.

[English]

SHRI ISHWAR PRASANNA HAZARIKA (Tezpur) : Mr. Deputy-Speaker, Sir, illicit traffic in drugs and narcotics has been assuming an alarming proportion over the years. There is no doubt that there is an urgent need to combat this social menace.

There is no doubt that this House would extend unanimous support to this Bill to amend or extend the operation of Section 10 from 31st July, 1996 to 31st July,

1999. It is only one dimension of this problem that I would like to focus on. This is a dimension of terrorism and national security.

Today we find that wherever terrorism exists, that place happens to be the usual route for drug and narcotic trafficking. In this Act the vulnerable areas that have been identified specially in the northeast where I come from are areas affected very seriously by terrorism. What is it that is sustaining terrorism and terrorists in these areas? They have acquired highly sophisticated arms like AK-47, AK-56, rocket launchers and what have you. Where have they got all the money from? Is it merely from collection through extortion from the people of this country or is it merely contribution from the countries hostile to India or is it also the money coming from the narcotics trade? Therefore this issue needs to be addressed very seriously because it is not merely a coincidence that terrorism affected places are also places where drug traffickers are flourishing and thriving.

At the same time we have agencies like ISI operating merrily in many of these sensitive areas and they are also conniving with and assisting in the drug trafficking operations by the unscrupulous traders with the assistance of terrorists. Therefore if this menace is to be curbed and combated effectively, then this aspect of terrorism needs to be given proper attention to without which this menace can never be combated successfully.

Again, we find that Kashmir unfortunately has been left out of the definition of the vulnerable areas. Now we have seen that in the Hawala case a lot of money passed through Hawala operators to terrorists. Therefore it is quite clear that some drug trafficking money is going to the purchase of arms by the terrorists operating even in the Kashmir areas and perhaps the Government would consider including Kashmir also as one of the vulnerable areas as defined in this particular section.

Finally I would like to point out that this subject is being dealt with by the Finance Ministry. Apparently it is because the Customs is under the Finance Ministry and therefore this subject which is with the Narcotics Department has been kept as one of the Departments of the Finance Ministry, Revenue Department. But if it is left to the Finance, then they are liable to take a revenue oriented view of the problem and not the social oriented view nor the security oriented view nor the prevention oriented view. Therefore this also needs to be considered by the Government - whether this subject should be taken out of the purview of the Finance Ministry and placed within the purview of the Home Ministry which should be, in my view, the appropriate Ministry to deal with the problem of illicit trafficking in drugs, narcotics and psychotropic substances.

With these few words I would extend support to the amendment to the Bill as moved by the hon. Finance Minister.

[Translation]

SHRI GEORGE FERNANDES (Nalanda): Mr. Deputy Speaker, Sir, while giving one's opinion on the law under consideration here, it is necessary that we pay our attention to the eastern region of our country. It is very easy to understand as to which foreign power indulge in sending such type of narcotics to our country. But in my view the eastern region of the country is most important region of the country in this trade. It does not mean that our people there have the know-how of producing heroin or are actually engaged in opium cultivation. But across the border, Burma is such a State livelihood of whose people is only narcotics. The way for them to smuggle heroine outside Burma is Manipur in eastern region of India and the More town of Manipur is adjacement to the border of Burma. Heroin is sent to India through that channel and it can be said that this is the way wherefrom heroin is supplied to the world market through India. This channel is already there. Insofar as eastern region of the country is concerned, we are careless in every aspect concerning this region. We do not think at all about narcotics situation prevailing there, neither do we want to listen to anything about it. There is no need to tell here as to how the security forces of India are engaged in this narcotics trade. The jawans of our Border Security Force were apprehended near Patna while transporting heroin in trucks. This heroin had been brought from across the border. The matter was raised and discussed in the House. The prosecution aspect was also discussed but it is not known what ultimately happened in that case. The material is brought in the Border Security Force trucks and their other vehicles follow them as protective cover. Our jawans, armed with rifles and posted at borders to guard them, indulge in these activities. It can be easily understood how dangerous these activities could be.

Along with narcotics, the other malady in the eastern region is AIDS. This also is finding way into our country to a large extent. Eastern region is very far and does not have more Lok Sabha seats. Therefore, except one or two bigger political parties, other parties are not worried about it. Who would like to run after one seat and this is also believed that whatever party forms a Government in Delhi, the entire Government in eastern region would work at its behest and members of that very party will be returned to Lok Sabha from there. We people here have that sort of thinking. If we happen to go to that area and see the effect of AIDS and narcotics on the lives of the people there as also on their economy, we can well understand their plight. Our friend Munshiji definitely knows this. But discussion in this regard is not taken up here. The hon. Minister has brought this Bill here. I would like to request him to pay attention to that area also. I would like that a team of eight to ten member of this new House should visit that area and personally see as to what havoc drugs have played there, what ruin has been brought over there and to what extent

AIDS has spread its tentacles. These points should be elaborately discussed here because we have got an opportunity today.

MR. DEPUTY SPEAKER : Please suggest some remedial action in this regard.

SHRI GEORGE FERNANDES : On our border there, we have open trade with Burma. Earlier this was not there. It has started only two years ago. We have opened our borders fully. The idea behind this was to increase our trade with Burma. I would like the hon. Minister to pay attention to this point that the goods worth hundreds of crores coming from that side are made in China. All those goods are not manufactured in Burma. Heroin comes from Burma, aids is exported from Burma, cloth and electronic goods come through road-route upto More. In a way these things are being smuggled into our country. I would, therefore, like that the vigilance on our borders should be strengthened further. We should keenly watch on our borders as to what is happening in our neighbouring country. I will also submit that there is militancy rule there and the people around the world have experienced in what way such type of activities spread in the countries ruled by army whether it is South America or some other country. In whatever country there is army rule or dictatorship, history bears testimony that money has been made in such countries through drugs and this money then used to repress the people. We are witnessing the same phenomenon in the present era also. America has good relations with India. It is difficult to imagine as to how much pressure America is building on Burma to ban the trade in drugs and to stop drugs cultivation. They are on this job for the last so many years. The biggest lot of drugs was surrendered before the Government by the drug traffickers about ten months ago. But those people also struck a bargain with America that though those traffickers had surrendered, yet they would not be arrested and prosecuted. After striking this bargain, they even disbanded the private army. I, therefore, submit with utmost emphasis on my part that our Government should discuss these matters with the Government of Burma. Our borders with Burma through which Chinese goods are finding way into our country should be guarded more vigilantly. The Government should take some steps to save the eastern region and the country at large from the onslaught of drugs and aids. If we concentrate our efforts only in the western region, we may lose sight of the region wherefrom we have the real danger. I, therefore, submit to the Government at this juncture that they should safeguard the interest of eastern region and take steps to discuss this matter with the Government of Burma.

MR. DEPUTY SPEAKER : Thank you. I would like to add a little bit and that is that whatever Shri George Fernandes has said is very important. I would like the Government to take it seriously and adopt effective measures in this regard.

[English]

SHRI P. CHIDAMBARAM : Mr. Deputy-Speaker, Sir, I am grateful to hon. Members who have broadly supported this Bill which, as I said in my introductory remarks seeks to extend the period of detention in the case of persons and activities which take place in highly vulnerable areas.

Let me, at the outset, clear what appears to be a misconception. This is a law relating to preventive detention. There is another law - the Narcotic Drugs and Psychotropic Substances Act, 1985 - which is the substantive law dealing with offences, offenders, and punishment for offences. In fact, the punishment for offences in that law includes the death penalty. So, it is a very strict law. It is not as strict as in Singapore. It is not as strict as in Malaysia. But our law is an extremely strict law. For the last six or seven years, after we persuaded the Judiciary to enforce the law very strictly, normal sentences which are handed down under that law, are ten years or seven years imprisonment.

Even death penalties are provided for in that law. This law does not deal with punishment at all. This is a preventive law. If a person is caught with drugs, either possessing for his own consumption or possessing for trafficking, then he is punished under the NDPS law. This is a preventive detention law intended to nab people who are likely to engage in smuggling or illicit trafficking and, therefore, this law has to be tested and dealt with in a different way. This law is to be traced to Article 22 of the Constitution. There is another law, I am coming before this House with some amendments in that law to take care of some aspects which the hon. Members have mentioned. For example, if somebody possesses a very small quantity, will he be punished? I am coming forward before this House with amendments to that law but this law is a preventive detention law.

Sir, as I said, when I spoke on the earlier Bill, drugs and narcotic substances have to be dealt with very severely. Traffic in these substances and offences relating to these substances have to be dealt with a very severe hand. But as I said, India because of its geographical location, is especially vulnerable to illicit traffic, because we are right between the Golden Triangle and Golden Crescent. We cannot change our geography nor can we change or administer the laws in our neighbouring countries. We simply have to protect ourselves, which is why we are very strict in both the substantive law and the preventive law.

I am aware that there is a high density of illicit traffick in drugs and narcotics in India. That is because, illicit traffick in drugs and narcotics is run by international Mafia, international cartel. The money involved in this business is mind boggling. A very large amount of money is involved. In fact, the estimate is that the money involved exceeds the GDP of many small countries. That is the kind of Mafia which runs illicit drugs and traffic in narcotics. But we have done rather well. Unlike the

other law, which I highlighted a little while earlier, in this law we have a very high success ratio of having our detention orders upheld by courts. For example, in 1993, 107 detention orders were issued and 90 people were detained, 55 cases were upheld by the courts. In 1994, 189 orders were issued, 158 persons were detained, 63 per cent of the order were upheld by the courts. In 1995, 111 orders were issued, 87 persons were detained, 70 cases were upheld, which means 80 per cent of the cases were upheld. And, so far, up to June, 1996, 45 orders were issued, 41 persons were detained and in 39 cases orders have been upheld, which means, there was a success ratio of 95 per cent.

We have also declared some areas as highly vulnerable areas. These declarations are made having regard to the requirements of the situation. We have made a large quantity of seizures of Opium, Morphine, Heroine, Ganja, Hashish, Methaqualone, in highly vulnerable areas. Almost 40 to 50 percent of the quantity, of, say Methaqualone and Herione, is seized from highly vulnerable areas and that is why, there is a need to keep a distinction between all areas and highly vulnerable areas and provide for a longer period of detention in respect of highly vulnerable areas. We are the only country in the world which allows legal cultivation of Opium. No other country allows it. We have been permitted by the international community to do that mainly for medicinal purposes. A very significant extent of land in our country is licenced for cultivation of Opium.

For example, in Madhya Pradesh it is 14,200 hectares, in Rajasthan 9,922 hectares, and in U.P. it is 227 hectares. The number of Licences issued is also large. In my view, we seem to be issuing far too many licences even given this acreage, but I intend to review that matter. The minimum yield which is prescribed is 46 Kg per hectare. But I have taken note of hon. Members' point that there appears to be some difficulty, and some abuse of this provision of minimum quantity. I will review that when I review the NDPS Act.

15.20 hrs.

(Shrimati Geeta Mukherjee in the chair)

All areas in which licenced cultivation of opium has been permitted have been declared as highly vulnerable areas. Therefore, the new amended Section 10 will apply to all areas where licensed cultivation of opium has been allowed.

I am aware that some of the law-enforcing agencies are also indulging in smuggling of drugs and narcotic substances. The most infamous case is the case of officers and men of one of our paramilitary forces who smuggled narcotic drugs from the North-East and were arrested in Bihar. This is a shame. If the fence begins to eat the crop, there is no way in which we can insulate our country from the assault of this international mafia

which deals with drugs and narcotic substances. We have come down heavily on this group of people. They were detained under this Act, and they are being prosecuted under this Act. I have also issued directions to examine whether more severe action cannot be taken against them by invoking Article 311 of the Constitution. That is under examination.

As I said, I will now, now that I am free from the Budget exercise, begin to attend to some other aspects of my Ministry. One of them will be to review the laws relating to preventive detention both under COFEPOSA and SAFEMFOPA as well as the NDPS Act. While I do a review of these laws I will also review the administrative steps that are required to be taken to enforce these laws. I am deeply grateful to hon. Members for the number of suggestions they have made. I shall keep these suggestions in mind. I request that this Bill, which provides for the extended period of detention under Section 10 may be continued for another period of three years. The Government has found that this section is an extremely useful and deterrent section to crackdown on illicit traffic in drugs and narcotic substances all over the country and in particular in highly vulnerable areas.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the prevention of illicit Traffic in Narcotic Drugs and psychotropic Substances Act, 1988 be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : The House will now take up clause-by-clause consideration. Shri Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Madam Chairperson, I would like to say only this much that the hon. Minister has replied that this law is appropriate. There are no two opinions about it. But it should be made a bit more strict. The hon. Minister should look into this aspect and I will also submit that there should be provision for more stringent punishment in this law... (Interruptions). The number of persons consuming smack is increasing in our country. Smack is causing much harm to the youth and other people. This addiction is spreading in schools and colleges also. I, therefore, request the hon. Minister to made the law more harsh. It should be done once for all so that the need to bring forth amendments time and again is obviated.

This is why I have said that if instead of 99 it is 98 then it will be certainly good. If hon. Minister agrees to this it will be alright. My submission is that the hon. Minister should not think much of 99. Of course, I do not know what the hon. Minister has in his mind as their new Government has been constituted only recently. I am talking about their good as well as good of the country.

[English]

MR. CHAIRMAN : Are you withdrawing them?

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Yes, I have to withdraw it per force. I have to accept the reply being given by the hon. Minister. I am withdrawing it.

[English]

MR. CHAIRMAN : In that case, Shri Girdhari Lal Bhargava has agreed to withdraw the amendment.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : As per your order, and even not being satisfied by the reply given by the hon. Minister, I am withdrawing it.

[English]

MR. CHAIRMAN : That is very kind of you, both for me and the hon. Minister. Has the hon. Member the leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS : Yes.

The Amendment was by leave withdrawn.

MR. CHAIRMAN : The question is:

"that clause 2 stand part of the Bill."

MR. CHAIRMAN : 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 RAMAKANT D. KHALAP: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is:

"That the Bill be passed."

The motion was adopted.

15.28 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

[English]

MR. CHAIRMAN : We now go over to Item No.19. Now, the hon. Minister to move the Bill.

THE MINISTER OF STATE OF THE DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE (SHRI RAMAKANT D. KHALAP) : I beg to move:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."