

[Shri Shivraj V. Patil]

Reactors, the recently commissioned Research Reactor 'Dhruva' also depends upon Jaduguda also depends upon Jaduguda plant of the Uranium Corporation of India Ltd. for its fuel requirements.

Under Article 246 of the Constitution of India, Parliament has exclusive power to make laws in respect of Uranium mineral since it is one of the mineral resources referred to at serial No. 6 of the Seventh Schedule of the Constitution.

Taking into account the various facts explained above, the uranium industry was declared as essential service under sub-section 2 of Section 2 of the Essential Services Maintenance Act, 1981 (40 of 1981) vide Notification No. S.O. 595 (E) dated 8th August, 1985 published in the Gazette of India Extraordinary, Part II Section 3, Sub-Section (ii) dated August 8, 1985. The same Notification was laid on the Table of the Lok Sabha on August 14, 1985.

I commend the above Resolution for consideration and approval by the House.

MR. DEPUTY-SPEAKER : Resolution moved :

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance Act, 1981 (40 of 1981), this House approves the notification of the Government of India in the Ministry of Home Affairs No. S.O 595 (E), dated August 8, 1985, published in the Gazette of India Extraordinary Part II, Section 3, Sub-section (ii), dated August 8, 1985, declaring 'Uranium Industry' as an essential service from the date of issue of notification, which was laid on the Table of Lok Sabha on August, 14, 1985."

I have not received any names to speak on the subject. I would, therefore, straight-

away, put the Resolution to the vote of the House. The question is :

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance Act, 1981 (40 of 1981), this House approves the notification of the Government of India in the Ministry of Home Affairs No. S.O. 595 (E), dated August 8, 1985, published in the Gazette of India Extraordinary, Part II, Section 3, sub-section (ii), dated August 8, 1985, declaring 'Uranium Industry' as an essential service from the date of issue of the notification, which was laid on the Table of Lok Sabha on August 14, 1985."

The Resolution was adopted.

14.44 hrs.

TERRORIST AFFECTED AREAS
(SPECIAL COURTS) AMEND-
MENT BILL

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN) : I beg to move :

"That the Bill to amend the Terrorist Affected Areas (Special Courts) Act, 1984, be taken into consideration"

The Terrorist Affected Areas (Special Courts) Act was enacted by the Parliament on 31st August, 1984 replacing the Terrorist Affected Areas (Special Courts) Ordinance, 1984 which was promulgated on 14th July, 1984. This legislation was enacted to provide for speedy trial of certain offences in terrorist affected areas against the background of terror and violence which had made functioning of the ordinary courts for trial of offences, usually committed by terrorists, extremely difficult.

As hon. Members are aware, Memorandum of Settlement between the Govern-

ment and the President, Shiromani Akali Dal provides that Special Courts constituted under the Act will try only cases relating to offences of waging war and hijacking. The Bill seeks to restrict the operation of the Act by keeping only very serious offences relating to waging war (Sections 121, 121A, 122 and 123 IPC) and hijacking (Sections 4 and 5 of Anti-Hijacking Act) within the ambit of the Act, so that only these offences could remain triable by the Special Courts and cases relating to all other offences whether pending before the Special Courts or under investigation could become triable by ordinary courts.

I commend the Bill to the hon. House.

MR. DEPUTY-SPEAKER : Motion moved :

“That the Bill to amend the Terrorist Affected Areas (Special Courts) Act, 1984, be taken into consideration.”

Shri Venkata Ratnam

SHRI N. VENKATA RATNAM (Tenali) : Some years back, an Amendment was passed to the Constitution under which emergency could be imposed only in certain circumstances or where the Prime Minister was pleased to do it, but it was under conditional rules of certain Acts. One of the main Amendments is the conspiracy and war against the State. I am glad that those provisions were brought into this. I think, Sir, and my Party also have no objection to this Bill being passed. The only thing is, the judicious aspect of the matter has to be maintained. The most dominating factor in this would be the psychological factor and also the emotional factors. I do appeal to the Government not to be led away by any emotions because we are a responsible Government guarding a huge country, a huge democratic country and the biggest democracy in the world. So in this, I do appeal to the Government to be less emotional and more judicious in this aspect and my party and I myself personally would recommend passing of this Bill.

SHRI N. TOMBI SINGH (Inner Manipur) : Mr. Deputy Speaker, Sir, I am glad to support this Bill which heralds the improvement of the political situation in the country. As we discuss this Bill, I would like to make a special reference to the solution of the problems of Punjab and Assam. The Minister has been humble in the statement of the objects of the Bill. He has mentioned that the situation has not only changed but the situation has really improved. The democratic tradition of the country that has been generated under this Government and the present Constitution of India has been very much displayed in this Bill. Whenever such Bills were introduced and passed, the apprehension of the Opposition and many critics has been that these Bills might be misused. But now we have seen that the anger of this democratic tradition, which has been the anger of the good man, never lasts. This is like a second mark on the surface of water.

Sir, we discussed some time back in the last Session of the House, the Anti-Terrorists Activities Bill and it was also pointed out at that time by many Members from both sides that Government should take care while implementing such laws. Now, we see that soon after the situation has improved in Punjab and Assam, the Amendment has been brought just to limit the relevance of the Special Courts, where the jurisdiction should be confined only to the hijacking act and also waging war against the State. This shows that Government had in mind a very temporary plan for a stand by to meet emergencies.

Sir, I would like to make a special mention of this problem -- the problems of Punjab and Assam with particular reference to Assam. The hon. Home Minister should have his share of credit with the Prime Minister he had contributed so much to the solution of the Assam problem. This solution of the Assam problem, following the solution of the Punjab problem has led not only to the solution of the problems of two States, but also the overall situation in the country has definitely undergone a favourable change. I would only like to

[Shri N. Tombi Singh]

make a reference to certain areas of the North-East where we have not been able to take sufficient action, the State Government or any Court for that matter has not been able to take sufficient action against terrorists activities.

Sir, in the States of Manipur and Nagaland. No Court has been able to pass any tangible convictions on any of the terrorists or underground extremists. We can quite understand that the outlook of the State and of the national Government is this: they may be waiting for, or rather giving a chance to the extremists, and sometimes terrorists also, to change their views, and extend their cooperation and think of coming into the national mainstream.

Another aspect has to be taken special care of, *viz.* why, in a particular State or region, no conviction or prosecution has been possible? Is it that the courts or the prosecuting agencies themselves have been just a part of the political agitations—or what else is the consideration?

So, while implementing the law relating to terrorist activities, particularly its judicial aspects, you should at least try to prosecute those involved some serious cases, and study why the prosecuting agencies have not been able to make any good case before any court, and also see why, for that matter, any court has not been able to award any conviction. This is a matter to be considered.

I would like to know from the hon. Home Minister, when he replies, the details regarding the results of the application of this Act, *viz.* Terrorist-Affected Areas (Special Courts) Act, 1984, e.g. how many cases under the Schedule have been taken up for prosecution, and how many have been convicted under this Act. Now, as we discuss this amendment to this Act, there is not only a change, but also a definite improvement in the political situation, with the solution of the Punjab and Assam problems. So, I would like to make a reference to certain possibilities. I refer to the early '70s when we gave a general amnesty to the insurgents operating in Nagaland and

Manipur. Those who were there in the Tripura jails—Agartala jails—were given a general amnesty, in the hope that there would be a lasting solution, and cooperation from these young and angry people. Soon after the amnesty was given, I do not know whether the State Government handled these people wrongly. These people should have been properly rehabilitated. I do not know why the problem itself was not solved. The amnesty perhaps did not bring in its results, because around 1978, we saw the coming up of insurgent organizations in Nagaland and Manipur. Our information is that those who were arrested and were in custody in the Agartala jail were divided, when they came out. The State Government might have failed to rehabilitates them properly. Our information was that some of them were armed by the Government through wrong method based on erroneous understanding of the problem and the other section was thus separated and naturally they might have tried to form the PLA—the People's Liberation Army. This is a lesson to us. Today, if we see the insurgency lying low and the situation apparently peaceful, perhaps this might not be the real position. That is why, we would like to request the hon Home Minister to involve the Home Ministry and its intelligence agencies and its military agencies, to see whether there is any incubation for another spell of insurgency in some other name. If it is so there should be socio-economic follow up to pacify the angry youth.

Only the other day, there has been an ambush on a army patrol, killing as many as seven or eight jawans. There was the killing of members of a Peace Camp by unidentified extremists. Also, a former member of the Public Service Commission and a former Minister, one Mr. Solomon was killed in his residence by unidentified extremists. This happened in Imphal itself, while the killings of the army jawans and members of the Peace Camp happened in the hill areas. This indicates that while problems in major cities have been solved. Those in small ones are still to be solved. Major problems like Punjab and Assam have been solved and this is very good and welcome improve-

ment But along with these, if we can solve these outstanding problems in the North-East, it will be much better. For instance, the problem in Tripura will not be solved by police or army action alone. This will need economic and social programmes. I am not in favour of any terrorism and terrorism should be put to an end anywhere. But the genuine grievances of the tribal people in Tripura have to be redressed. The original tribal people, the Tripuris have been outnumbered, I do not like to go into details, and naturally they are so dissatisfied and angry. So, the young people find reasons to organise uprisings and create law and order problems for the State Government. Here I would suggest that police action alone is not the solution. We should also see as to what the real difficulties and problems of these original and indigenous people of Tripura are. Now, they have been outnumbered by the people coming from outside. They form a small minority and they have become a helpless chunk of the population there in their own State. So, their grievances have to be redressed their demands fulfilled within the democratic framework of the Constitution. I do not mean to say that this should be done at the cost of our Constitution but their genuine grievances should be fulfilled.

When we refer to punishments for terrorists, extremists or insurgents or whatever name we give them, they are in most of the cases, political. Now the relevance of the Gandhian method should be propagated. It appears that we have lost contact with this very valuable method. We won our historic independence from the British yoke through the Gandhian method. India, which is a vast country and which has a glorious Constitution should continue to preserve its democracy. While preserving our democracy, the genuine and legitimate needs of different groups and of even different trade unions, should be fulfilled.

So, these people are to be educated about reliance on the Gandhian method of non-violence. This should be emphasised through our media, through our education, through our public activities and

democratic traditions, particularly our democratic parties, national parties. Political activities should be so organised as to train younger people particularly in the border areas so that they resort only to the glorious method of the Father of our nation, so that our democracy will become more complete, more meaningful, and the activities that come in this field would become a democratic expression of demand, democratic movements, legitimate demands and so on. Political leaders and parties should not directly or indirectly support or organise terrorism for temporary ends. With these words, I support this Bill.

SHRI SHANTARAM NAIK (Panaji) : We must really congratulate our Prime Minister, Shri Rajiv Gandhi, for the steps that he is taking following the accord between the leaders of Punjab and himself. We must also appreciate the efforts of our Home Minister who has been assisting the Prime Minister in this effort to achieve peace in this dedicate area.

It is true that this legislation and the legislations which are coming especially the one which we have passed earlier, are a sort of temporary statutory measures which we have to enact from time to time for particular aims. I feel that a day should come when we may not require even special courts at any place in this country, because at a time our judiciary should be so effective and so widespread that with the given the number of judges—whatever may be the offences—they should be able to dispose of cases within a short period of time. Today we need them because the regular courts cannot dispose of these special matters within the stipulated time or within a short time that we would like to have. But we should certainly have that atmosphere so that a day must come when we should not require special courts in future. However, we have to consider this also because we have amended the present schedule in which we have dropped provisions of several Acts which are quite serious in nature—for instance, The Indian Railways Act, the Explosives Act and so on. In this Act, there are certain provisions which are quite serious

[Shri Shantaram Naik]

in nature. Today, in order to build up a good atmosphere, we have deleted these provisions from the Act, but we should see to it that if and when offences under these Acts are committed, the normal courts are able to dispose of cases under those Acts speedily, and for which purpose more and more judges should be appointed in those normal courts so that the normal machinery is not hampered.

In general, we have to strengthen our prosecution machinery. Public prosecutors of integrity, have to be chosen to deal with such offences. Otherwise, if a faulty investigation takes place, if a public prosecutor is not there with serious attention and work, then each and every case is bound to failed. One of my colleagues suggested that not many trials have taken place or in fact convictions have been awarded in many of the serious offences. It may be because our prosecution machinery is not that effective. Therefore, we have to strengthen our prosecution machinery.

In fact, each case must be handled by two prosecutors so that if one prosecutors for any reason is not able to attend to the case the other prosecutor can be available. Or an Additional or Assistant Prosecutor can be there to take up the case so that the case is not affected.

Further, I would like to suggest to our hon. Home Minister that we should have a machinery to scrutinize what has been done by our investigation machinery and also by the prosecuting officers because we have often seen that for one single fault the entire case collapses and in spite of all the efforts made by the others the case is lost due to the fault—deliberate or otherwise—on the part of the investigating machinery. There should be a special vigilance to look into such things, so that our efforts will not be fruitless.

I once again congratulate the Prime Minister and the Home Minister for creating this atmosphere in the country.

SHRI AMAL DATTA (Diamond Harbour) : Sir, ordinarily, there should not

be any necessity for any such Act at all. The amendment which has been brought to it, is to shorten or reduce the scope of the original Act. That is welcome. But, Sir, I ask: what the interest of keeping this Act alive at all is? What has been the contribution of this Act, which has been passed about a year ago, in bringing about a situation in which the accord in Punjab has come about? Can the Home Minister say that this Act has been helpful in any respect? Can he say whether it had anything to suppress the terrorism, or to eliminate the terrorists or extremists? When was this kind of Act used to enable the Government to tackle the situation politically? The situation is being sought to be tackled politically and there is no necessity for such an Act. The learned speaker, who preceded me, has said that the anomalies in the process of trial and investigation should be eliminated; the loopholes that remain in the law should be curbed. That is everybody's view. It is not only in these terrorist areas but in normal places also where there is no terrorism that it should be so. But the prosecution machinery is hardly able to detect the loopholes and prevent the crime. So, there is a lot to be done in this respect. But unfortunately, the Government has scarcely been able to do much, to tackle this kind of problem. Laws have been changed from time to time. The Criminal Procedure Code dates back only to 1977, not so long ago. But it is not being implemented properly. Unfortunately; there is no body to see that the Police officers do their work properly. The higher supervisors do not supervise the lower officials and then again the people who are there in the Ministry, they shirk the responsibility of ensuring overall supervision which is their duty. Ultimately, it is the responsibility of the hon. Home Minister. I may say that even in Delhi if the law and order problem deteriorates, they may, any day, establish special courts on the ground that there is a break-down of law and order.

Therefore, the whole thing has to be looked at from the point of view of the present political, economic and social milieu. One has to study what is lacking in our jurisprudential system and why it

does not keep pace with the developments in the economic and political fields. This has happened and during the last decade or so this has happened very rapidly. The political and economic direction has gone in one way and the pace of development has been much different from what preceded this era. But the development in the field of courts, law, jurisprudence, etc. has not kept pace. Therefore, what is necessary is that the Government should be able to look at the situation as a whole and to put into effect some remedial measures by which they will be able to detect the criminals, bring the criminals to trial and get them convicted. This is just not happening. It is not only in the Centre but in the States also it is not happening. There has been a spate of bank dacoities. I do not think, barring one or two cases, any of these has been detected and any of them convicted. When this is the situation, what will you do with the special courts? And what is the result of the special courts? Absolutely nothing. You are keeping this alive in the Statute Book only on one or two grounds, namely, waging war against the State. But this is such a nebulous concept that I do not think that it would really be of practical use. A terrorist who murders somebody in a heinous manner, you cannot say that he is waging war against the State. It is only in an exceptional situation where they have some extra-territorial demands, the demands which go against the national interest and integrity of India that this particular section can be invoked. Otherwise, what happens is that many terrorist or extremist activities will take place and the Special Courts Act will have no application. Will they be brought to book through the ordinary courts? They will not be. In fact, the special or no special courts, the situation will remain the same. I appeal to the hon. Home Minister and the Government that this Act which is really and odious Act, which makes a provision for criminal trial in camera and which is against all norms of jurisprudence which we follow in this country, should be totally repealed because it has proved to be totally useless. So, say so; call a spade a spade and remove it from the statute book altogether. Do not keep it as a blemish on

the democratic framework which we have.

So, with this appeal I support the measure now being taken. But I appeal that this should be totally repealed.

[*Translation*]

SHRI HARISH RAWAT (Almora): Mr. Deputy Speaker, Sir, this Bill seeks to fulfil certain formalities for which the Government had been trying for some time past. Besides, the Bill has provided us and the members of the opposition parties as well an opportunity to congratulate the hon. Home Minister and his Government on their action to normalise the situation in the country so that such special courts need not be set up. In 1984, when this Bill was introduced, the conditions in the country were bad. The extremist elements were trying to spoil the situation and that was why the said Bill had been introduced at that time, which was the original Bill. The opposition leaders and the entire country were agreed that certain concrete steps should be taken against the extremists so as to instil in them some fear that there is a law in the country under which they can be awarded the several punishment. The ordinary courts were unable to award that punishment. Possibly, even after the setting up of the special courts, many extremists might not have been nabbed or trial might not have been started against them. But the Bill at that time went a long way to create panic among the extremists. That was the situation in 1984. Government made the situation normal through their efforts within a very short time. Besides, the Bill also makes the intention of the Government clear about the assurance that they had given to the persons interested in normalising the situation in the country through the Punjab Accord. This Bill also seeks to fulfil the promise made to Assam agitationists with whom an agreement has been concluded through negotiations and in this way the Government has been fulfilling all its assurances one by one and we hope that the other people in the country would appreciate the feelings of the Government and extend

[Shri Harish Rawat]

their cooperation in the normalisation of the situation.

A lot has been said about the Punjab and Assam agreements. Punjab accord has been welcomed everywhere and the decision to hold elections in Punjab is a step towards normalising the situation there. Some political parties are trying to criticise this decision for political reasons. About Assam agreement as well, many political parties are saying so many things for their political ends. Fact is that the entire country was very much concerned about both these problems. But our Prime Minister and his Government solved both these problems through their imagination and thus the people heaved a sigh of relief. People felt that a great burden is now off their heads. Therefore, the efforts of Government to normalise the situation through constitutional process should be welcomed by all. People should not view this decision from political angle. I would request my friends in the opposition not to be apprehensive about the efforts of Government and view these efforts of the Government by rising above party politics. Keeping in view the interest of the country, they should extend their whole-hearted cooperation to the efforts made by the Prime Minister to normalise the situation in Punjab and Assam. With these words I support this Bill.

SHRI RAM PYARE PANIKA (Robertsganj) : Mr. Deputy Speaker, Sir, I rise to support whole-heartedly the Terrorist Affected Areas (Special Courts) Amendment Bill 1985 brought before this House. While supporting this Bill, I congratulate hon. Prime Minister* and the Home Minister that they have made it clear to the people of this country that the assurances given to them by our leaders, Government and the party would be fulfilled in toto. It would be seen that our party has been making sincere efforts to fulfil all the promises made to the people. The hon. Minister in his speech said that the situation has undergone a change but it is not a mere change. It is a considerable improvement in the situation. The people of the

country now are hopeful that the problems that had been plaguing this country for the last so many years would be solved one by one and now our country is poised for a big lead forward. The Gujarat problem and the Assam problem have been solved and their results have been quite encouraging.

It is true that when some special conditions arise, the Government has to bring forward a legislation to meet those conditions. I remember that this Bill had been passed in August last year and at that time the extremists and the secessionists were very active. These forces were active not only in Punjab but in Kashmir and other parts of the country as well. Now normal situation prevails in our country and the credit for this goes to our Government. This Bill has two objectives; one to establish the Special Courts and the other to prevent crimes like hijacking etc. We are sure if any such crime was committed it would be dealt with sternly. If Government continued to take such steps, the need for establishing Special Courts would not arise in future. As this Bill has been supported by the people on the other side as well, I would merely state that...

Our friends have referred to the Kashmir problem. They desired that strict watch may be kept on incidents such as the one that took place on the 15th August and I entrust the responsibility therefor persons like the Prof. Saheb who are no longer in power (*Inter-ruptions*). It is necessary to create the right atmosphere which they want. Therefore, in view of the present circumstances, we should support this Bill and pass it unanimously. I would request the Home Minister to have this Bill passed unanimously.

[*English*]

SHRI V.S. KRISHNA IYER (Bangalore South) : Mr. Deputy Speaker, Sir, I wish the hon. Home Minister had brought in a legislation to abolish the Special Courts once and for all. Though their jurisdiction has been restricted, still the Special Courts remain. No doubt you have explained and we are aware of

the circumstances under which it was brought, but in view of the cordial atmosphere created because of the Punjab Accord, I certainly feel that there is no need for this legislation because the circumstances have completely changed. I also personally feel that having this on the Statute is also to some extent against the spirit of Punjab Accord.

I personally feel that the present provisions in the Indian Penal Code are adequate to deal with the situation, particularly those which are intended to be dealt with by the sections which you have now added to the new Schedule of this Amendment. What is more important than a legislation like this is that our Indian Penal Code is very much outmoded and it should be amended. I am quite aware of that. In my state or take any other State for that matter and see how the cases are investigated. Even the good cases are spoiled by the bad investigation by investigating authorities. All this happens because we do not give proper training to the investigation officers. I have seen in a number of cases, particularly in the criminal cases, they use third degree methods for investigating the cases and finally those cases fail in the courts. I would suggest that it is high time that the Indian Penal Code is amended so that the people could have speedy trial and proper and thorough investigation on modern methods. It is said in many advanced countries there are improved methods of investigation. I am personally not aware of these but as Home Minister, he must be aware of these. He should study the conditions in other countries also and adopt such methods as are really suited to our country. So, I earnestly request you to see that investigation methods are reformed.

We find in criminal courts there is unnecessary delay in conducting the cases. One of our friends from the ruling Party, Shri Naik, has also mentioned about it. Even the Public Prosecutors are not properly trained. They require special training because it is a special art which is involved in prosecution. So, even for public prosecution proper training is

necessary. Therefore, I would only wish that a day will soon come when we will scarp this entire Act.

Now, what I would like to know from the hon. Minister is whether this legislation has helped in containing the terrorist activities? How many cases have been lodged, how many have been tried and how many have been convicted? That is a very important information, which I would request the Home Minister to furnish to the House.

I am sure at least by the next session you will certainly bring forward a Bill to completely abolish the Special Courts. At the same time I appeal to the Hon. Home Minister to bring in an amendment to the Indian Penal Code, which is long overdue.

[Translation]

*SHRI K. RAMACHANDRA REDDY (Hindupur) : Hon. Mr. Deputy Speaker, Sir, before I start my comments on The Terrorist Affected Areas (Special Courts) Amendment Bill, 1985, I am reminded of a proverb in Telugu, weich means that a Festival cannot be celebrated in all fervour just by sweeping the floor or just by cleaning the house. Before we start celebrating the festival we have to attend to so many preliminaries. I wonder why this amending legislation has been brought forward so suddenly without attending to certain primary issues.

The parent Act was enacted in 1984 in the environment of ever-growing conditions of disturbance in certain parts of the country due to criminal activities of the terrorists. After this law came into force, certain cases were referred to the Special Courts constituted under the provisions of the Act. I do not know whether these Special Courts have served the purpose for which they were constituted. Without enumerating in the Statement of Objects and Reasons of this Bill the nature of conditions prevailing in 1984 necessitating the enactment of Parent Act and the nature of conditions prevailing now, the hon. Minister has

*The speech was originally delivered in Telugu.

[Shri K. Rama Chandra Reddy]

introduced this Bill. The hon. Minister has not made it clear whether there has been improvement now as a consequence of the implementation of the parent Act. Similarly, he has not adduced any reasons for removing certain clauses from the purview of the parent Act. I am sorry to say that it looks funny for me when I see the removal of certain clauses from the purview of the Parent Act.

By including Section 342, 343 and 506 of I.P.C., pertaining to petty offences in the parent Act, the Government arrogated to itself enormous powers. Now, the hon. Minister has to elucidate the compulsions under which these clauses have been taken out of the jurisdiction of the parent Act and he should also apprise the House as to whether there has been such a change in the circumstances necessitating the repealing of these clauses from the parent Act.

I will now refer to Clause 2 of the amending Bill which says :

“15A. Where the area comprising a judicial zone has ceased to be a terrorist affected area and no cases are pending before a Special Court or an Additional Special Court established in relating to such judicial zone, the Central Government may, by notification in the official Gazette, abolish such Special Court or Additional Special Court”.

There are two pre-conditions for the abolition of Special Court or Additional Special Court. One is that the area comprising a judicial area has ceased to be a terrorist affected area and the second is that no cases are pending before a Special Court or an Additional Special Court. I would like to know who is the authority to declare that a judicial zone has been rid of terrorist activities and no criminal offences have been committed in that zone. This amending Bill does not delineate this issue. The hon. Minister has to remove this lacuna from this amending Bill.

Sir, it would have been much better if the Special Courts have been abolished completely. It is inexplicable to me that the Government has removed from the purview of the Parent Act IPC sections 302, 304, 307 and 308 dealing with murder cases, attempted murder, culpable crimes not amounting to murder, dacoity, robbery and arson including extortion. Section 436 of IPC has been taken out of the jurisdiction of the Act. The jurisdiction of the Special Court has been restricted to extremely serious offences of waging war against the Government and hijacking.

If the Government is of the view that all terrorist activities have ceased, then the entire Act itself should be repealed. Originally all those sections of IPC were incorporated in the parent Act because the Government felt that all the offences under the said sections were terrorist activities. Have they ceased to be so now with the introduction of this amending Bill? That is why I said in the beginning that you cannot celebrate a festival just by cleaning the house.

It augurs well for the country that we have reached an accord both in the Punjab and in Assam. We are happy that the era of conflict is being put an end to. But, I would like to sound a word of caution that peace and amity will not become the order of the day throughout the country just because of these two accords; I would say that it would be just wishful thinking if we base our hopes on these two accords. After the Punjab accord a Member of Parliament was murdered in Delhi. We could not even trace the criminal, leave alone the question of bringing him to book. It will be wrong to assume that the terrorist activities have been reduced or eliminated. You know, Sir, that while the talks were going on about Punjab accord, so many innocent people were killed due to explosion of transistor bombs in the capital. After deciding whether terrorism has been completely eliminated from the country, the aspects referred to in the Bill should have been taken up for consideration.

With these words I conclude my speech.

15.30 hrs.

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN): Mr. Deputy Speaker, Sir, I am thankful to all the hon. Members who have supported this Bill. This Bill is a sequel to the accord which was reached between the Government of India and the Shiromani Akali Dal. This is a part of the accord. We had promised that there would be change effected by which only two types of offences can be tried in a special court. As a result of the accord, this legislation has been brought before the House to seek the support of this hon. House.

Sir, a point was made by some of the hon. Members as to how many cases were there in the special courts. The position as on 26.7.85 as shown in the Abstract of Pending Cases in Special Courts in Punjab is like this:

The number of cases is 3896 and the accused persons are 7109.

About the cases disposed of by the special courts, the total number of disposal cases is 3654, convicted—3242 and acquitted—412. Of these, under I.P.C. 324 there were 164 convictions and 160 acquittals. Under Arms Act and other Acts, the number of cases is 3330; 90 per cent relate to the Arms Act.

Chandigarh: Total number of disposals—134.

So, this clearly shows the importance of special courts and the purpose; whether the special courts have been able to fulfil the purpose for which the special courts have been created, will be borne out by the facts. I think it would be too early for us to take a very hasty decision as to whether the time has come when we have to think in terms of winding up the courts. Hon. Members are aware of the fact that where it is possible to discuss political issues, we have been able to resort to that, we have been able to

discuss with the President of the Shiromani Akali Dal and whatever reasonable things Government thought that we should reach an accord on, a settlement was arrived at. But we cannot also be oblivious of the fact that there is a section which is still against the courts, they are still trying to create conditions of disturbance in that area and if we have to think that merely because an accord has been arrived at, there is no possibility of extremist activities in that area, it will be a very optimistic view. I, at least for the time being, would not like to give this kind of an impression to the country that there is not going to be any kind of terrorism and extremism in Punjab. Of course, they will choose their own time and methods, but we should not rely on the fact that because of the fact that there has been no incident in the recent past, there is not going to be any in future. The main purpose why the Special Courts Act was enacted was, conditions in that area were such that no witness was prepared to come, even those who were pleading their cases were also feeling rather apprehensive as to whether they were going to be safe. It will be too much on my part if I were to say that even some of the Judges were also not immune from this kind of a psychology. So, these were the conditions in which the people were functioning and it was necessary that special courts should be created, and four or five of them were created in Punjab and two were outside. Now, the activities of the special courts are going to be confined only to two major offences—one is treason or waging war against the State. Another is hijacking under the Anti-hijacking Act. So these are the two categories in which the Special Courts should try all the offences. Hon. friends gave very valuable suggestions—about faulty investigation and the way the cases are being conducted by the Public Prosecutors, that either they are not present or that they do not take as much interest as they ought to have taken and that is why there is a large number of acquittals.

I must say that we are now pursuing all these matters and are trying to find out as to whether a proper analysis of

[Shri S.B. Chavan]

the entire situation was being done, how many cases have been filed, what has been the judgment of the court, what are the defects pointed out and why is it that the cases do not result in conviction of the accused and why they have been acquitted. Of course, the machinery is there. They scrutinise the judgments of the courts but without qualitative improvement. In fact, we are interested in bringing about a qualitative improvement, would like to see that those who indulge in such kinds of activities should be brought to book and a fair trial should be given to them. Proper investigations must also be there and ultimately it should result in the conviction of the accused persons. We are trying our level best and I can assure the hon. Members that if the pendency in particular cases requires that the number of judges should be increased in ordinary courts in order to dispose of the cases in an expeditious manner, certainly we will take that into account and if necessary, the number can also be increased. In regard to public prosecutors also who are already there, if they are found short, certainly we can also think of increasing their number so that Government cases do not go by default.

SHRI K. RAMACHANDRA REDDY : The quality should improve—not necessarily the number should increase.

SHRI S B CHAVAN : I cannot help it. I do not think that I can assure you about the quality of the Judges who are going to be appointed. The Public Service Commissions are there, they will take care of merit.

SHRI K. RAMACHANDRA REDDY : I am not talking about the quality of the Judges, I am talking about the quality of the Public Prosecutors.

PROF. SAIFUDDIN SOZ (Baramulla): That you can do.

SHRI S.B. CHAVAN : I take note of it. The quality of the Public Prose-

cutors, of course, needs to be improved. They need to be given special training—as also the investigating officers.

A point was raised by one of the hon. Members about the North Eastern Region and the conditions prevailing in that area. I do not think it is relevant so far as this discussion is concerned. Still, for his information, I can say that there are two extremist—if I were to use that word—gangs operating in that area. One is what they call the Mizo National Front which operates in Mizoram and also in Tripura and another is the NSCM which operates in Nagaland, Manipur and also part of one bordering State. These are the two extremists groups who are operating in those areas. With one group, I feel within a very short time we will be able to reach some kind of an understanding which is going to create a very helpful atmosphere both in Mizoram and Tripura and the other group which is working there is in fact creating a lot of trouble both in Nagaland as well as in Manipur—especially, the insurgent Nagas and the way have been conducting this, they have been creating a lot of problems. That is why all our anti-insurgency forces are fully deployed in that area and we are trying to see that we put an end to the kind of insurgency that we find. This will certainly require the assistance and co-operation of the local people and unless they fully co-operate in weeding out these extremist elements from that area, it is going to continue for the time being.

But I can assure the hon. Members that we propose to take very stringent action against all these extremist elements. We cannot possibly allow some people to hold the entire community to ransom and get some money from them illegally and get some arms also smuggled into the country. That is how, these people have been creating all kinds of problems.

I think these are the main points which were made by some of the hon. Members. I do not think that I need clarify and other points.

With these words, I request the House to pass the Bill.

MR. DEPUTY SPEAKER : The question is :

“That the Bill to amend the Terrorist Affected Areas (Special Courts) Act, 1984, be taken into consideration.”

The motion was adopted.

MR. DEPUTY 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.

Clauses 2 to 4 were added to the Bill.

Clause 2, the Enacting Formula and the Title were added to the Bill.

SHRI S.B. CHAVAN : Sir, I beg to move :

“That the Bill be passed.”

MR. DEPUTY SPEAKER : The question is :

“That the Bill be passed.”

The motion was adopted.

13.43 hrs.

COFFEE (AMENDMENT) BILL

[English]

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P.A. SANGMA) : On behalf of Shri Vishwanath Pratap Singh, I beg to move that the Bill further to amend the Coffee Act, 1942 be taken into consideration.

As the House is aware the Coffee Board has been functioning with the

prime objective of development of coffee plantations and regulation of sale and export of the produce from such coffee plantations. The Plan and non-Plan expenditure of the Board is met from the proceeds of the duties of customs and excise levied under the Coffee Act, 1942. The present rate of duty of customs and duty of excise on coffee have reached the upper ceiling of Rs. 11.80 per quintal each fixed under the Act. These rates have been in vogue since 16.12.1977.

2. The Plan and non-Plan expenditure of the Board, excluding loans and subsidies, has increased from Rs. 1.78 crores in 1978-79 to Rs. 3.90 crores in 1984-85. The Budget Estimates for 1985-86 are of the order of Rs. 6.45 crores. The expenditure is, however, shot up tremendously over the years whereas the rate of duties of customs and excise are at the same level as they were fixed on 16.12.1977.

Under non-Plan, there has been increase in expenditure mainly due to increase in DA, ADA, Interim Relief etc. in the establishment side and due to increase in research activities and marketing activities. Under Plan side also, a number of new schemes viz., Man power Development, opening of coffee demonstration, farms, setting up of chemical laboratories, storage and warehousing capacity etc. have been taken up and eight new schemes are proposed to be taken up during 1985-86. The proceeds of the two duties would not be sufficient, and, therefore the Central Government had to resort to grant-in-aid to meet the expenditure of the Board during the financial year, 1985-86. Finding that the proceeds of the two duties levied under the Act are not commensurate with the increasing expenditure of the Board, it has been found inevitable to amend Sections 11 and 12 of the Coffee Act to provide for a higher ceiling of levy of duty of Customs and duty of excise at a rate not exceeding Rs. 50 per quintal for each. The actual operative rates of the two duties will, however, be fixed at such levels as may be sufficient to generate funds to meet substantial part of the Budget expenditure of the Board in future.