

SHRI AMAL DATTA: Sir, when he writes to the film actors and actresses, only one person replies and he says that his entire expenditure was borne by *

MR. DEPUTY SPEAKER: No Don't bring the names. I am not allowing this to go on record. The question is:

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

The motion was adopted.

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

MR. DEPUTY SPEAKER: Clauses 2 and 3. The question is:

"That Clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

MR. DEPUTY SPEAKER: The question is:

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

The motion was adopted.

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

MR. DEPUTY SPEAKER: The Minister may now move that the Bill be passed.

SHRI JANARDHANA POOJARY: Sir, I beg to move:

"That the Bill be passed."

Sir, with due respect to our hon. Member, I do not name any person... (*Interruptions*)

MR. DEPUTY SPEAKER: I cannot allow the names to go on record. I have already told this.

SHRI JANARDHANA POOJARY: If there is any *prima facie* evidence against any person, whether A or B or C, action will be taken against that person and no body will be spared.

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY SPEAKER: Now we will go to the next item-items No. 10 and 11 to be discussed together.

14.44 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF NATIONAL SECURITY (AMENDMENT) ODINANCE, 1987 AND NATIONAL SECURITY (AMENDMENT) BILL

[*English*]

MR. DEPUTY SPEAKER: Shri Basudeb Acharia-absent. Shri Somnath Chatterjee-absent.

SHRI AMAL DATTA (Diamond Harbour): Yes, I am here.

MR. DEPUTY SPEAKER: I called Mr. Chatterjee. I think you are not Mr. Chatterjee. You are telling other names but you are forgetting your own name. That is the problem I am finding now. I called Shri Somnath Chatterjee and you are saying, "I am here". What does it mean?

SHRI G. M. BANATWALLA (Ponnani): He is giving other names when he does not know his own name, Sir.

MR. DEPUTY SPEAKER: That is what I am saying. Shri Amal Datta. Now it is your name I think. You can move this Resolution.

SHRI AMAL DATTA: Sir, I beg to move:

That this House disapproves of the National Security (Amendment) Ordinance, 1987 (Ordinance No. 3 of 1987) promulgated by the President on the 9th June, 1987."

Sir, as in all cases of preventive detention, we are, on principal, against this kind of depriving a person of his liberty. This is not consistent with the democratic principles and my friend Mr. Chidambaram, who is a lawyer of great renown, definitely knows that democratic countries, and particularly those countries from where we have got the models of democracy, have always looked down upon this kind of preventive detention Acts. Even during the war time, when such an Act was passed in England during the Second World War, it was challenged in court and it was upheld by a majority of the House of Lords only during the duration of the War but not beyond that. But the minority judgement in that case, which has found favour with other countries and the judges of the courts later on, has been quoted on various occasions, namely, that even amidst the pressures of arms, people cannot be deprived of their liberties without any due trial according to the due process of law. So, that is what exactly has been done in India. Since Independence, barring that two and a half years period when Janata Government was here...*(Interruptions)*

PROF. N. G. RANGA (Gunter): Oh!

SHRI AMAL DATTA: That is the fact. What can I do? You are in the Congress now but you were not in the Congress all the time. At that time you were also against this action. This is unfortunate and tragic culmination of our freedom struggle when we all without any reference to any party, creed or anything, had decried this kind of power in the hands of the alien Government. After that we got our Government to power. Immediately they enacted a law by which people could be

deprived of liberty without any trial. In effect what does the Preventive Detention mean? It means that allegations are made against a person by the police or by the authorities who are interested in his detention. Once the allegations have been correctly made, in a sense that the allegations may not be correct, the method of making allegations, the procedure to make allegations that has to be in accordance with certain principles under the law and as has been interpreted by the courts. That is all that is required—that allegations have to be made in accordance with the law as interpreted by the courts. Then the person can be put behind the bars actually, indefinitely, although the law prescribes a certain limit—one year, two years, something like that. This is all, I would say, given a go by. Whenever the Government wants to put the person behind the bars, all that is required, when he is let out, or immediately to come out of the gates of the jail, another order is handed over to him and he is again pushed back in the jail. There are instances where people have been deprived of liberty under this for years together by a succession of orders passed upon him. This is done—when he is coming out or he actually comes out of jail or he is going to be released within a short time. This is a kind of Acts that we have had with us for a long number of years.

Now it is a question of certain special provisions being there regarding disturbed areas. What is being done by the police in the disturbed areas to locate the people who are responsible. After you put a person behind the bars under preventive detention, are you any better? Is he really an accomplice of those people? Let us assume for a moment that he has in fact been a culprit, he has in fact indulging in terrorist or subversive activities. Then the people who have been his accomplices and associates, and with whose help he has been doing all those things, will be abroad. They will be at liberty to do whatever they want.

When the police get the power of preventive detention, it has been conclusively proved in any country where this kind of power has been given with an edge of the police detection is immediately lost and if this

continues for a long time the police intelligence agencies have become a complete failure. One of the reasons why we have not been able to solve disturbed area problem, Punjab problem and so on is because the intelligence is utterly lacking. Intelligence is lacking because for long number of years we had given this power to the police. With all the right you are not able to detect somebody who has committed crime. Then you arrest anybody. They arrest anybody they like and they abuse power. They became corrupt. In this Act itself, police is corrupt. In India it has been so. Now, with this kind of power in hand, the abuse of power makes corruption all the easier. We have given instances which come to light through several commissions of enquiry instituted by our Government that this power has been abused right and left during those days and in emergency and before that when there was Congress Government in West Bengal between 1972 and 1977. I would not go into details how that Government came into existence. But any way that Government had exercised the power of preventive detention numerous cases and some of these cases were examined; in Commission of Enquiry it was found that in each and every case there was a estimate of what happened when an incident had taken place. Somebody comes to make an F. I. R. He names 10 persons that they have been involved in an accident. The Police tries others, several others or hundred others and so on. This is an action which we call bad. Therefore, this is the situation created by the Police within which they can show anybody they want. After that, they would invite the people to come to the Police Station, tell them that here is a case in which you are involved, your name is indicated and our sources say so. Now, who are the sources which the Police are not bound to tell anybody? Even in an investigation that was conducted by the Commission of an enquiry, this could not be brought out who are the sources. The Police write in the files that according to sources, according to their sources, this person was also implicated in this particular case and so they tell him that according to our sources you are implicated and we are going to arrest you and here is the order of Preventive Detention Act we

serve upon you unless you pay so much money. So that persons pays money and he goes away. This is the way of corruption and the persons who are arrested are those who cannot pay money. Therefore, they are arrested. But in respect of all kinds of Prevention Detention Act, people who can pay the money to the Police-and they do-they get away and those who cannot pay are arrested.

Now, this is an Act which says that the Police do not have to produce the people and these people who are put behind the bars are tried before the court at any stage. All that they do is to satisfy the subservient Advisory Board. Now, the Advisory Board usually is constituted of persons who had been in judiciary, who are at the end of their career or who have retired. So, these are the persons who want to carry on their job as long as possible. They have nothing better to look forward to and therefore they please the executive.

PROF. N. G. RANGA: Therefore, they are also to be treated as suspected people.

SHRI AMAL DATTA: No. They are not suspected. They connive and could with the Police.

PROF. N.G. RANGA: Everybody?

SHRI AMAL DATTA: No. You can get the serving judges who have got 10 years to go. Such judges will be more independent. But this never done. A judge usually serves the judiciary for a period of not less that 25 years. Now, after 15 years, he definitely has sufficient experience to serve as one of the members of the Advisory Board. But invariably such a judge is never brought. It is a matter of two or three years that he will be serving. He has got another 7 or 10 years to look forward to in the judiciary. Such a judge is never brought. The persons brought are usually the people who have either retired or are going to retire very soon. If such a person is there, he is given a three-year tenure in the Advisory Board. He is very happy. He will say "I have got two more years and I shall be drawing the salary". Really speaking, he has

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very little to do here in contrast to the work the judge has to do. So, by this method the Government is able to secure the complaint of the so-called Advisory Board by the power of money which the Government throw at them and they get their complaint and no proof is to be given.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): That is a very serious allegation to say that the Government throw money power at the judges.

SHRI SAIFUDDIN CHOWDHARY (Katwa): He is talking of salary (*Interruptions*)

SHRI AMAL DATTA: These people who may have one year to go or due to retire.....

SHRI P. CHIDAMBARAM: Did you say that the Government has thrown money power at them?

SHRI SAIFUDDIN CHOWDHARY: No. The judges who become Advisory Board members take salary.

SHRI AMAL DATTA: These Advisory Board Members may also have been judges who are about retire.

SHRI P. CHIDAMBARAM: What is that you are saying? Why don't you say it clearly?

SHRI AMAL DATTA: Why do you have to go and pick up the members for the Advisory Board from the retiring judges? Why? There is definitely a policy here.....

SHRI SAIFUDDIN CHOWDHARY: Do you dispute it altogether? Don't you have money power? This is what he wants to say.

SHRI P. CHIDAMBARAM: If you say it, say. Don't make any insinuation.

SHRI AMAL DATTA: That is why I gave an illustration. Mr. Chidambaram, don't try to draw conclusion vaguely. I gave an illustration that you will never take a judge who has got ten years to go in the judiciary.

You will never take a judge like that. You only take a judge who is either retired or retiring. Then only, you can induce them with your money power, I put it on record. Money power means, that you have got the power to go on paying them beyond their retirement age. The judges are retiring at the age of 58 or 65, whatever the case may be. And you will go on paying their salary for another 2 years or 3 years. So, for most of the judges who are in service and at the point of retirement, that a great attraction. Do you deny that?

SHRI P. CHIDAMBARAM: Of course, I deny that.

SHRI AMAL DATTA: All right, you deny that. In that case, why do not go for judges who have got 10 or 15 years more in the judiciary itself? You never go for them. Whatever Constitutional safeguards are there in article 22, in the form of an advisory board, they have been made nugatory completely by the Government by adhering to this kind of practice. That Constitutional safeguards is totally taken away. They have got the most compliant advisory board. We have gone through those records and we have seen on what slim and slender evidence, the advisory board confirms a persons with detention order. We have done that in the commissions of inquiry. They do not require anything more than some allegations which have been certified by SP or somebody of that rank. That is all that is required. The inspector originally makes the detention order out and he gets the consent of SP. Ultimately, the same SP goes and gives a note. On the basis of that note, detention order is confirmed. That is how a person is kept behind the bars for two years.

The other side is that the intelligence agency has become quite blunt. In any case, they are to start with the field staff who

cannot be called intelligent by any stretch of imagination. But whatever little competence they have acquired by constantly working, that also goes, because it is not necessary for them to find out the crime, the method of committing the crime, adducing evidence and so on. Nothing is required any more because of the existence of such laws. That is one of the reasons why the Government cannot now pin down the extremists in Punjab. They do not have adequate intelligence agency. That is not only in Punjab but in any State where preventive detention law has been in existence and has been applied for a long time. That is the case.

The other side of it is, a person who has been guilty of murder is put behind the bar for one year, in this case may be for two years. If a person has committed murder, then the ordinary law of the land prescribes that he will go behind the bar for a much longer period or he will be sentenced to death. But that never happens. How many of such crimes have been detected? Mr. Chidambaram, I hope, you will be able to give us some figures as to how many crimes have been, in fact, detected.

SHRI P. CHIDAMBARAM: You cannot take an alleged murder under this Act.

SHRI AMAL DATTA: Though you have got this handy weapon with you, even a person who is a murderer, is actually never put behind the bar under this Act. But somebody else in this place, has been done so.

SHRI P. CHIDAMBARAM: Give us the case.

SHRI AMAL DATTA: Again you are asking me to make the inquiry, when Mr. Poojary wants us to be an informer.

SHRI P. CHIDAMBARAM: Since you are criticising us, give us information, instead of talking in the air.

SHRI AMAL DATTA: I am not talking in the air. You know these things. Neither am I prepared to give you all the information which have been found out in the Commis-

sions of Inquiry nor will I be given the time to do so. But if you are prepared like Mr. Poojary to sit down with us, I will show you what kind of information is found out and on what kind of information people have been put behind the bar and detention order is confirmed by the advisory board. This is all farcial state of affairs. This Act gives that power which the Government can abuse with impunity. That is all. People who are politically inconvenient, ultimately they are the people who will go and march in the street. It is easy to get hold of them and put them behind the bar. People who will come and murder will get away. They never get hold of these people. If they could get hold of these criminals, then I would have understood that there is something in this Act. They never do that. But people like us who will demonstrate in the courts, in the street, give *Dhama* and squat and all that, they are the people who are easy to get hold of and they are the people who are thrown behind the bars by this kind of Act, but not people who actually commit the crime. No actual terrorist can be put behind the bars unless he comes and he surrenders himself because there is no machinery to arrest him. This is the kind of situation in which the Government, taking advantage of a particular situation and part of the country, is trying to arrogate to themselves more powers than they have been given in the original Act itself. So, such an Act can never be tolerated in a democracy. The original Act itself is a blot on our democracy, whatever democracy we have, and these additional powers can certainly not be given to the Government.

15.00 hrs

So, I appeal to everybody to exercise independent conscience and not be bound by whatever the party says in this matter because democracy is much more important than the Party whip and, therefore, they should rise above their petty party politics on this occasion and vote this Bill out of this House.

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill further to amend the

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National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh, be taken into consideration."

As the House is aware, the normal life of people in Punjab and Chandigarh has been under constant threat from terrorists. The terrorists made innocent people their target and peace of the State was in danger. Even religious places, educational institutions and public places were not spared.

Hon. Members have, on many occasions, emphasised the need to take stern measures to control terrorism. The Government of Punjab have also recommended that the provisions of National Security (Amendment) Act, 1984 as were available during the period 4th April, 1984 to 3rd April, 1986 may be re-introduced. It was, therefore, considered necessary that the law enforcing agencies in Punjab and Union Territory of Chandigarh should be armed with additional powers for tackling terrorists. Since the Parliament was not in session and there was urgent necessity, the National Security (Amendment) Ordinance, 1987 was promulgated by the President on the 9th June, 1987. The provisions of this Ordinance were similar to the provisions available for the disturbed areas of the state of Punjab and the Union Territory of Chandigarh during the period April, 1984 to April, 1986.

The Bill seeks to amend the National Security Act, 1980 in its application to the 'disturbed areas' of the state of Punjab and the Union Territory of Chandigarh:

- a) to increase from 10 to 15 days the maximum period within which grounds of detention may in exceptional circumstances be communicated to the detenu and to increase from 15 to 20 days upto which the orders made by the officers referred to in sub-section (1) of Section 3 of the Act may remain in force without the approval of the State

Government.

- b) to provide in certain cases for detention of persons without obtaining the opinion of the Advisory Board for a period of more than three months but not exceeding six months from the date of their detention and to provide also in such cases for a longer maximum period of detention; and
- c) to make consequential amendments in the Act.

The provisions of this Bill will be applicable only to the disturbed areas of Punjab and Chandigarh and to those detentions which are made on or before 8th June, 1988.

I may assure the Hon. Members that the Bill is mainly meant to facilitate the authorities to defeat the evil designs of terrorists in Punjab and Chandigarh.

We have separately advised the State Government and the Chandigarh Administration to invoke the provisions of this Ordinance and now to act with extreme care.

I would sincerely request the hon. Members of this esteemed House to consider all these aspects and I hope and trust that this Bill will receive their support.

MR. DEPUTY SPEAKER: Motions moved:

"That this House disapproves of the National Security (Amendment) Ordinance, 1987 (Ordinance No. 3 of 1987) promulgated by the President on the 9th June, 1987."

and

"That the Bill further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union Territory of Chandigarh, be taken into consideration."

Now, Shri C. Madhav Reddi

SHRI C. MADHAV REDDI (Adilabad): Before I go to the principles of the Bill, I would like to mention in brief the constitutionality of the Bill which was discussed at the time of introduction of this Bill. I had not opportunity then because I had not given notice at that time to oppose this Bill. But there are a few points which remained unanswered and there is also a lot of confusion about the constitutionality of the new Section 14(a) proposed in the Bill. Now, Sir, the hon. Minister relied on Article 22/Clause (7) of the Constitution; Clause (7) empowers of Parliament to make a law to provide for preventive detention and also to see that the persons detained are to be detained beyond three months without taking opinion from the Advisory Board. Article 22, Clause (4) puts certain restrictions on the law-making powers of the Parliament. But these restrictions had been taken away by Article 22, Clause (7). But then in what respect and in what cases you can do? Article 22 of the Constitution clearly lays down two sets of powers to be exercised by the Parliament in making a law -one set of power is under Clause (4) under which you can make a law for preventive detention and then you have to create a machinery of the Advisory Board etc. and the maximum period of detention is three months unless it is confirmed by the Advisory Board. In the same Article, Clause (7) says that in certain cases, this need not be adhered to i.e. you can disregard Clause (4) of Article 22 in respect of certain cases and in certain circumstances. The Article is very clear about this. If there are any circumstances and if there are any cases in which such a disregard of Clause (4) is required, we can disregard that Clause (4) and we can proceed under Clause (7) to make a law without any limit. In Clause 4, there is a limit of three months. But under Clause 7, there is no limit. But then, while making a law, we are putting a limit of six months. It is o.k. But the point here is that in what cases you can do that? Now, you have described "in certain circumstances". One circumstance exists for which you can you make this law and that is regarding Punjab and Chandigarh-which have been declared as disturbed areas.

That is a situation in which you can make a law providing for detention disregarding the Clause (4). But Clause (7) also says like "in certain cases". What are those "certain cases" in which you can disregard? They have not been given. In this Section 14 (9) you have enumerated five types of cases. But they had been already enumerated in Section 3 of the Original Act. There is nothing new. Suppose, if there is a Sixth case in which you could have said: 'persons who had been detained because of the Terrorist activities as defined in the Terrorist and Disruptive Activities Act, then it could have been validated. But you have done nothing of the sort. I do not think that you are on strong ground and I do not share the optimism of the hon. Minister that we are going to win the case before the Supreme Court.

Sir, the second point I would like to make is that the case is before the Supreme Court because the original Section 14 (a) of the Act was struck down by the Punjab High Court. Then you went to the Supreme Court and got a stay. That means, the original Section 14 A is in force. Even though it struck down by the High Court of Punjab, because of the stay order of the Supreme Court, that section is in force....

SHRI P. CHIDAMBARAM: That lapsed. I am sorry to interrupt you. That section was originally only for a period of one year from the 5th April, 1984, to the 4th April, 1985, extended by another year which expired on the 4th April, 1986. Therefore, from the 4th April, 1986, regardless of the Supreme Court stay order, there is no section 14 A.

SHRI C. MADHAV REDDI: Sir, I agree with him and I also point out to him that even if it had not lapsed, it will lapse with the passing of this Bill because the Bill says...

SHRI P. CHIDAMBARAM: Sorry to interrupt again. That original section 14A had a life of two years, from the 5th April, 1984 to the 4th April, 1986. In the meanwhile, on the 9th December, 1985, the Punjab High Court struck down that section. But on the 20th December, 1985, the Supreme Court stayed that judgment. Therefore, you are right that

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from 20th December, 1985 upto the original period of two years, namely, 4th April, 1986, section 14 A was revived, but after 4th April, 1986, there is no section 14 A. We are now introducing it by the Ordinance promulgated on the 9th June, 1987 for a period of one year, upto 8th June, 1988. That is clear, I suppose.

SHRI C. MADHAV REDDI: I quite understand this position. I agree with you. But what I mean to say is that, even if it had not expired, the present Bill says that all the Acts which had been passed earlier, the amending Acts, are going to be repealed, which means that original section 14 A does not exist today. That is the position.

SHRI P. CHIDAMBARAM: It does after the Ordinance was promulgated on 9th June, 1987.

SHRI C. MADHAV REDDI: That is different. That Ordinance is being replaced by the Bill.

SHRI P. CHIDAMBARAM: Therefore, it is there.

SHRI C. MADHAV REDDI: That, I understand. But you had gone to the Supreme Court and got a stay and today it becomes redundant because there is nothing, no case in the Supreme Court, because no section 14A is in existence today. It is only a new section which is now in existence; we are bringing this new section into existence. And you have taken the position that, if it is struck down by the Supreme Court, again you will come before the House for amending this. Am I correct? That is what you said.

SHRI P. CHIDAMBARAM: If the Supreme Court points out any infirmity in section 14 A, we may have to come with an amendment. But, as it is, we do not think that there is any infirmity in section 14A.

SHRI C. MADHAV REDDI: You feel that.

SHRI P. CHIDAMBARAM: I can only say what I feel.

SHRI C. MADHAV REDDI: And you want to come before the House for an amendment for invalidating it. You asserted that day that this was not a validating Bill.

SHRI P. CHIDAMBARAM: Because that is not necessary. It is over.

SHRI C. MADHAV REDDI: It is not necessary, according to you. But in any case you have to come before the House if the Supreme Court judgement goes against us.

SHRI P. CHIDAMBARAM: That is the position with every law. The Bank Nationalisation law was struck down by the Supreme Court and we came back to Parliament. Land legislations were struck down and we came back to Parliament and to the Legislature. If the Supreme Court finds something wrong with section 14A, naturally we will come to Parliament. But, we are advised that there is nothing wrong with section 14A and, therefore, we do not think that section 14A will be struck down.

SHRI C. MADHAV REDDI: But, notionally, what I mean to say is that it is, in effect, in a way, a validating Bill. Anyway, that is my interpretation of the Bill.

Coming to the need for such a Bill and also the principle of preventive detention, I am reminded of the Preventive Detention Act which was being, every year, discussed on the floor of this House. Prof. Ranga knows that, for the first time, when this Bill was brought by Sardar Patel, he said on the floor of the House that, for two nights, he could not sleep because he was asked to move this Bill. The Constitution permits Parliament to pass such a Bill, but the administration in those days, the Government in those days, was so sensitive regarding this Bill that they used to take a lot of care to see that the Bill was not misused. Now, Sir what is happening today? In earlier days, when there was Preventive Detention Act which became subsequently the MISA, the NASA and so on, it went on changing its name only, there used to be a discussion on the floor of this House every year on a report, on a special report made by the Government

and asking for the approval of this House. In that report they used to describe, they used to report what has happened during the last one year, how many people had been arrested or detained under this Act and how many released and what was the position with regard to the machinery of the verification, the Advisory Boards how they function etc. Now nothing of the sort is happening. Today we have become so thick skinned that we do not feel that there is any need for Parliament to know as to how many people are being detained without trial under this particular Act which is a very draconian Act. Even though the Constitution permits us to make it all the same, it is an Act which has to be viewed very seriously. Even today, when an amending Bill comes before us, we do not know how many people are detained under this Act in Punjab and elsewhere.

Now, Sir, this Bill particularly when it comes before Parliament, I think that the Government must come out with a detailed report as to what has happened during the last one year or during the period when this Act was in operation? Now this was never brought to our notice.

Secondly, I do not know whether there is any need for such a Bill. We had a number of laws which were given to Punjab during the last three years starting from the Army Special Powers Act, then the National Security Act which is being amended, then there was Disturbed Areas Act, then there is recently the Terrorist and Disruptive Activities Act and so on. So many Acts we have given to Punjab. We have given to Punjab Mr. Ribeiro, we have given Mr. Ray, the Governor. But have we given peace to Punjab? What happened during the last four years when all these Acts were in operation, when we have been arming the executive in Punjab, the police and the military with all these powers? What has happened? What has happened and why is it that we could not succeed in bringing peace to Punjab?

Now, Sir, the terrorism, as we all know, cannot be countered by violence. It has to be solved politically. When the President's Rule was imposed on 12th of May last, it was told

that the constitutional machinery has failed that there is no peace, no law and order, killings are going on and then the people started a campaign what they called the 'Purification Campaign' and the meat shops and cigarette shops and the liquor shops are being burnt and so on and so forth and there is the elected Government which was not going to control the situation. That was the type of letter from the Governor based on which the President of India promulgated the President's Rule in Punjab. Now, Sir, what has happened? What happened since 12th of May 1987? Till today, from all accounts, incidents which had occurred there are much large, many more people have been killed, more incidents have taken place. This has been accepted-even in your Statement of Objects and Reasons to this Bill you said, "there is continued killings, continued violence and atrocities" -there is a need for such a Bill, which means the President's Rule has failed to solve the problem. Then where was the justification for the President's Rule?

15.20 hrs.

[SHRIMATI BASAVARAJESWARI *in the Chair*]

I have some very alarming figures which show that during the last three months, since 12th May, the number of persons killed by terrorists is 439, injured 356, cases of looting 355, cases of weapon snatching 137, cases of jewellery snatching 81, cases of vehicle snatching 131, attack on liquor vendors etc., 59, anti national flag hoisting etc., 77, bomb blast 7 and so on. These figure goes on. What is the position with regard to the activities today?

Mr. Darshan Singh Ragi has given up; he has left, he has surrendered and now he has gone to Chandigarh. We had hopes that perhaps he would be able to bring down the extremism. But that has not happened. We hear that certain activities have been started by the Governor such as the peace march, conventions etc. But inspite of all that I feel that there is no link between the Government and the people. Because the only link that

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we had was the popular Government and that had been dismissed. Today we find that there is no popular support to the Government there.

PROF. N. G. RANGA (Guntur): How can we say that?

SHRI C. MADHAV REDDI: Well, that is very clear from the incidents which I had narrated just now.

PROF. N. G. RANGA: People are not coming out of Punjab.

SHRI C. MADHAV REDDI: Well people are not coming out of Punjab. But how many people came out of Punjab earlier? What about the Lalru and Sirsa killings? They are still ingering in our minds and they will continue to linger in the mind of the nation for many more years to come. No such incident had occurred when there was a popular Government in Punjab.

There is no justification for giving more powers to the executive there. Nothing is going to harm the interest of peace if these powers are not given. What is required today is to have a new political initiative, that political initiative which will ultimately restore the popular rule there. I don't have any brief for Mr. Barnala or for anybody. But what is required is to restore the popular government and to see that the popular government rights the terrorists and not Delhi. Why should Delhi fight terrorists of Punjab? Why should you take all the blame on yourself? Why don't you restore the popular government there why not handover power to whoever has got the majority today?

At the time when the President's rule was being imposed, the Prime Minister declared on the floor of this House that this is going to be there only for a short period, for a few months. I don't know what was the motive for the President's rule. I am not going to accuse the Government that because of the Haryana elections they did it. But that was the talk. Whatever it might be, my point is that

when he categorically declared on the floor of this House that President's rule is going to be there only for a short period, then why do you wait? Why don't you take the initiative now? Why don't you see that the popular government is restored?

I have nothing more to say than to express my misgivings about this Bill which I have done already.

[Translation]

SHRI DHARAM PAL SINGH MALIK (Sonepat): Madam Chairman, I rise to support the National Security (Amendment) Bill, 1987. As all the hon. Members of this august House whether from this side or that side, will appreciate that the problem of terrorism does not concern any particular party, it is a national problem and we have to solve this by rising above the party level.

Some of the hon. Members who spoke before me have questioned as to why there is President's Rule in Punjab and why popular Government is not being restored there. I would like to submit before this august House that a popular Government was restored there and elections were held. The majority party was given the opportunity to run the Government. But the problem of terrorism went on aggravating and when no solution to that problem came in sight, the Central Government and to intervene and President Rule was imposed. During the President's Rule it was felt necessary to bring this law because the Government felt that the provisions in the parent Act were not effective. So, the present amendment has been brought to strengthen the administration and official machinery to combat terrorism. I feel that, when this type of amendments are brought for solving these problems, it should be the duty of all hon. Members in this august House to extend their support to such measures to strengthen the hands of Government. When the opposition criticise such measures and it is published in newspapers and broadcast through T. V. and radio, it boosts the morale of the terrorists and they launch their attacks with renewed vigour. (Interruptions)

Shri Ramoowalia knows better. We get the news through the press but he sees the happenings on the spot. We are his neighbours. The terrorists spray their bullets in Haryana and Delhi also. The problem should be viewed in that context. Acquisition of power for detention for 6 months instead of 3 months will not help. All out efforts are being made to solve this problem and deal with terrorists.

Incidents were taking place in Punjab and Chandigarh. But recently, two incidents have taken place in Haryana. The terrorists attacked the people of Haryana and killed them. The Government of Haryana, instead of apprehending the terrorists, started prosecutions against innocent people belonging to Congress. The opposition should answer this because it is their Government in that State. If the law is not made effective and full proof system is not evolved to see that no innocent person is harassed, how can we combat terrorism? It is unfortunate that the Government of Haryana on the pretext of terrorists Act filed cases against innocent people and harassed them. This sort of action encourages terrorists. They are very happy that they escape and the Government are prosecuting innocent people. I would plead with the hon. Minister that even if some more amendments are necessary they should be made so that no one misuses the Act.

There is President Rule in Punjab and if these activities go on increasing, the scope of the Act can be extended upto Haryana and Delhi and it can be misused there. Therefore, I request that the Central Government should look into the activities of terrorists, get them enquired into by the C. B. I. and see that no innocent person is apprehended.

With a view to solving these problems, such things had come before this House earlier also. The question of creating a security belt was discussed. Unless we are able to block the entry of terrorists from across the border, the problem will not be solved. The terrorists receive their training abroad. They are also supplied arms from outside which they use to attack the innocent people and spread terror. They want to create an atmos-

phere of fear. Therefore, I want to request the hon. Minister to create the security belt along with border areas which should be under the direct control of the Centre. Such arrangements will help in checking terrorism and the supply of arms from abroad.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): You request the Central Government in this regard.

SHRI DHARAM PAL SINGH MALIK: I wish such a time may not come when I will have to ask you to make such arrangements. I am requesting the Central Government.

The most essential thing today is to understand as to why terrorism is slowly spreading in the country. Why do the terrorists want to spread terror? They are doing it in the name of religion and spreading communalism under its cover. You may take the example of the incidents in Merrut, Punjab, Haryana and Delhi. Communal feelings are being spread here as well. These terrorists are dropping the common man with the opium of religion after consuming which he is not concerned about anything else. As a result communal riots take place and people become communal minded.

The press should also help in controlling terrorism. It should be ensured that only the correct facts are printed. It is generally seen that the sensational news items are printed in bold letters on the front page and the news items which are of special importance are printed somewhere inside in small letters. Therefore, the Press must also do a lot of rethinking in this regard.

The problem of terrorism came into being on the basis of certain issues like the S Y. L. canal or the religious issue or some such other issues. Of course, our hon. Minister understands the situation fully. Hence, I will not say anything more in this regard.

Under the provisions of the parent Act, the reasons for detaining a person have to be communicated to him within a period of 3 months from the date of his arrest. The period of such detention is being increased

[Shri Daram Pal Singh Malik]
to 6 months.

It has been seen that the cases of the terrorists go on for years together for no one is prepared to stand witnesses against them. Some provision must be made in the Act in this regard also. Investigations should as well be completed within a stipulated period and the decisions taken within the same period. When cases are not settled early and within the stipulated period, terrorism and those involved in terrorist activities get encouragement and the problem of terrorism becomes more acute. We shall be able to control terrorism only after all these provisions are made.

These were some of my suggestions and I support this National Security (Amendment) Bill.

[English]

KUMARI MAMATA BANERJEE (Jadavpur): I rise to support this National Security (Amendment) Bill, 1987. This is the most appropriate time to pass this Bill. During the last few months, the activities of the terrorists and extremists are on the increase in the Punjab and its surrounding areas. That is why our Government has come forward with this Bill.

Madam, although the whole of the Punjab is declared a 'disturbed area', it is found that more stringent action is necessary to prevent the terrorists from indulging in activities which jeopardise the security of the nation.

Madam, I support this Bills just not because I belong to the ruling party. I support this Bill because we are very much concerned about this problem of terrorist activities. Fissiparous and parochial forces are trying to destabilise our country through terrorist activities and this terrorism is spreading like cancer in our country. This moral responsibility of finding a solution to this problem does not lie only with State Government or the ruling party at the Centre. It is also the responsibility of the opposition to find

a solution to this problem. They should rise above the party lines, keeping the humanitarian factor in mind. It is the duty of every one of us to solve this problem.

Madam, we are very much concerned and today morning also, I raised this issue. In Delhi, the parents of school going children are very anxious because some schools have received some letters from the terrorists who threatened that 5,000 children would be killed before 15 August. I do not know where these letters have come from, but it is a fact that the parents are very anxious. I support this Bill on Humanitarian grounds and not for any political purpose. I would also like to emphasise here that we will support the Government's hand in every possible way to stop these terrorist activities. If the Government were to come forward with a more stringent action, we will support that too.

Some opposition members have taken a political stand on this issue and it is really very upsetting. We know that the opposition believes in criticism just for criticism's sake, but at least some times they must adopt a positive and constructive approach. I am really surprised to hear my CPI(M) friend, Shri Amal Datta, when he said that the Government of India is trying to murder democracy by stifling democratic activities. I do not know why he said all those things. But I may tell you that only at the central level you find that democracy is practised as per its true definition, namely, government of the people, by the people, for the people. I invite you Madam, to visit my State to find out how democracy is practised there. You will be surprised to find that democracy in that State means, Government of the Marxists, for the Marxists and by the Marxists'. I will just give you one concrete example. During the elections, I visited certain villages in my State. In one village, I asked a small shop-keeper to give me a glass of water, and the CPI (M) people did not allow that shop-keeper to use the Government's tube-well, just because he gave me water. This incident is reported in the press also. I had even written a letter to the Chief Minister in this regard.

In that letter I had stated that I may be a ruling party member, but is not my right to ask for a glass of drinking water from a small shop-keeper? Is it not my legitimate claim? Is it not my legal right? Is it not my democratic right? These types of things are going on in my State.

Even he has also said something regarding the appointment of a retired judge in the Advisory Committee. I am giving you for your information that in my State, the Government has appointed two Commissions, namely, Mr. Shalil Chowdhary and Mr. Ajoy Basu Commissions. They are retired judges of the High Court.

What Mr. Dharam Pal Singh has just now said, I entirely agree with him. He has said regarding misuse of power. So we should see to it that the problem of terrorism is solved and that all these terrorist activities should be stopped immediately. For this problem, the powers should not be misused. It has been seen that the powers given by the Government are misused by some administrators, by some politicians and even by some other officials. I would suggest that this should not happen. I would say ; that common people would get justice from the Government side. This is only an effort by the Government to try to show to the people of our country that they are very serious in the matter of combating terrorism. It is also a fact that somewhere around 25th July, 1987, 233 persons including 22 policemen were killed due to these terrorists activities in Punjab. This is happening not only in Punjab but also in Chandigarh, Delhi, Assam and Tripura. These terrorist activities are increasing day by day. You please consider this problem, not from the bureaucratic and administration point of view, but also from the humanitarian grounds. You should solve this problem as early as possible. I do not like to say anything more because I have already said that we have got Disturbed Areas Act, National Security Act, Prevention of Terrorists Act and also so many other Acts, but the main thing is, their proper implementation. If we implement these Acts properly, then I am sure what Mrs. Gandhi had said will one day become a reality. She had said that we have

faith in new India. Let us put our shoulders to the wheel.

I would also like to say that no vast section of our diverse population should feel forgotten that they are neglected. Their neglect is our collective loss.

I would like to conclude by saying that it is very easy to criticise the Government, but it is not easy to solve that real problem. The Opposition friends can say so many things because they have the freedom to criticise the Government.

"Nahin hain jinko Bharosa
Khud Apne Fanon Par
Ve Na Khuda ke Saharon ki Batt Karte
hain"

We are the people who solve the problems. They will only criticise. They will only back bite the Government. We are not interested in petty politics but we are only interested to solve this problem as early as possible.

DR. SUDHIR ROY (Burdwan): Madam, Chairperson, I stand to oppose this Bill. During the days of our freedom struggle, one of the battle ones was fight against Police Raj. Because the British people detained our freedom fighters for long and there was no trial. Therefore the fathers of our Constitution tried to ensure civil liberty and Articles 21 and 22 together ' tried to guarantee this individual freedom. Article 21 says that "no person shall be deprived of his life and liberty except by procedures established by law." Article 22 lays down that any person who is arrested by the police shall be produced before the Magistrate within 24 hours of his detention. He must be informed of the grounds of his detention. He is entitled to a lawyer of his own choice. But, then there is a proviso that a person held on detention, may be detained for three months, unless his case is referred to an advisory body.

I am grateful to the hon. Member Mr Madhav Reddi for recalling the words of Sardar Vallabhbhai Patel that he could not sleep for two days before introducing the Bill

[Dr. Sudhir Roy]

for Preventive Detention. But what I want to say is that this preventive detention was always used against leaders of the Opposition, and again leaders of mass movements. Mr A.K. Gopalan, who happened to be one of the foremost freedom fighters, was put under detention, just after this P.D. Act was passed. Our present Chief Minister Mr. Jyoti Basu was also detained under the Preventive Detention Act. We find that there are innumerable cases where the leaders of the Opposition, of mass movements, and of movements of working class and of peasants were put under detention without any free and fair trial.

It has been pointed out by critics that there are already snags in the Indian Constitution itself: if we critically read Article 21, it may be interpreted in such a way that a person's life or liberty may be deprived by legal procedures. In India, because we believe in legislative sovereignty, no bad law or tyrannical law passed by a parliamentary majority can be quashed.

Under Article 22, a person may be detained under Preventive Detention; speakers after speakers have pointed out that in civilized, democratic countries, such a preventive detention is unheard of. In Great Britain, only during the second World War was the right of *habeas corpus* taken away. But just after the cessation of hostilities, the right of *habeas corpus* was restored. But now we find that Government in its armour has many draconian laws, e.g. Disturbed Areas Act, MISA, ESMA etc. Since independence, barring 2 1/2 years, the present ruling party has ruled this country, and they have always used this preventive detention in order to curb and maim the Opposition.

We find that West Bengal, our Government categorically said that it would not use ESMA and NASA; in spite of it, in West Bengal the lame and order situation has not deteriorated. But in U.P., college and university teachers are on strike, and the U.P. Government has threatened that it would use ESMA against the striking teachers.

Thus, on a small pretext, you are trying to use such draconian laws.

Because in India crores of people are still unemployed, and do not get two square meals a day, mass movements are bound to multiply. We apprehend that such Acts would be used against them. Previously, whenever Government tried to pass such draconian, anti-people, undemocratic laws, they tried to assure us that such laws would never be used against leaders of mass movements, and against genuine struggles of the people. But, unfortunately, as I have pointed out, it is the Opposition party workers and Opposition leaders who were detained under MISA, ESMA and NSA.

Shri Amal Datta also pointed out that during 1970s many dishonest police officers had their hay day; they often put people under MISA or they threatened people that they would be detained under MISA, in this way, they made money. I repeat the words of Shri Amal Datta that most of these Advisory Boards consist of retired judges. We all know that in order to preserve the independence of the judiciary in order to strengthen the judiciary, the judges should not be given re-employment. In America, a Supreme Court Judge gets his full salary as pension after 10 years of service. Therefore, you may increase the emoluments of the judges, but don't employ retired judges because it curbs the independence of the judiciary.

Already there are many Acts and they were used by the Government. As Mr. Madhav Reddi had pointed out, since the proclamation of President's Rule in Punjab, more and more people are being gunned down and there is utter lawlessness; terrorism is on increase. Therefore, what is required is a political solution of the problem; what is required is a popular government; what is required is a broad consensus; and besides the intelligence network should be strengthened, because if you give such draconian laws in the hands of the police, they will not do their home work; they will not detect the actual culprit; they will just detain suspected persons. Therefore, I oppose this

Bill because it is not good that the period of detention should be increased; it is not good that they may be detained upto six months or they may be informed of their ground of detention after 15 days.

[*Translation*]

SHRI RAM NAGINA MISHRA (Salem-pur): Madam Chairman, I thank you for giving me an opportunity to speak on the National Security (Amendment) Bill. I want to make 2 or 3 suggestions. The Members belonging to our party have said that the Opposition is criticising it. I think that there is not a single hon. Member in this August House who does not want that terrorism should be put to an end. The whole House wants terrorism to end. Several amending bills have been brought in the House in this regard and all the hon. Members have unanimously supported them. I also remember a bill in which it was proposed that the borders should be sealed upto a distance of 5 kms. The whole House supported it. The Bill was passed but not implemented. Many such amending bills have been passed but they have not been effective in checking terrorism. The terrorism is increasing day by day. I want to know from the hon. Minister as to what are the reasons, behind it? I think the whole House unanimously wants that terrorism should be rooted out and for this purpose whatever number of amending bills are needed to be passed should be passed. This disease has not only infected Punjab but has spread everywhere. The terrorists are attacking one community, the Hindus, in order to incite communal riots. They are killing the Sikhs as well. They assassinated Sant Harchand Singh Longowal who was regarded as a saint by the Sikhs. The terrorists are neither Hindus nor Sikhs but anti-social elements. I think everyone wants to assist the Government with all his mite in eliminating the terrorists. In addition to the laws the Government should take the help of social organizations as well. The terrorists kill the Hindus and propagate that the Hindus are the enemies of the Sikhs. This is absolutely false. Today you may pick up any Sikh scripture and you will find traces of Hindu

culture in it. When the sons of Guru Gobind Singh were to be buried alive under the wall they were given the option of getting themselves converted. But the sons refused to change their religion and they were buried alive. When Guru Gobind Singh was asked to comment on this, he said that he had thousands of sons in the country. Guru Gobind Singh is our leader, our ideal. The Sikh community was created for the protection of the Hindus. But today the same community is destroying the Hindus. I think the Sikhs priests and the Shankaracharyas should hold a joint conference for ending terrorism. Those who are opposed to elimination of terrorism should be socially boycotted.

I think some more changes in the laws are needed. Terrorists should not be allowed to take shelter in religious places and they should also not be allowed to compile arms. If ban orders are not issued in this regard, all your amendments will be ineffective. You should frame laws to impose restriction on the storage of arms and ammunition inside the premises of places of worship and on giving shelter to the terrorists. These terrorists are not only active in Punjab or in Delhi but also in Uttar Pradesh and elsewhere in the country. It is true that United States may not be liking India's progress and perhaps feels that if our country continues to progress then it will become a super power one day. And that is why Pakistan is being supplied with arms which are being used to spread terrorism in India. We remember those days when the Late Shrimati Indira Gandhi was in power. There was so much of false propaganda against vaccination of children in the villages. A rumour was spread that the vaccine would render them impotent. Similarly, once a Sadhu supporting a heard was caught but subsequently his heard vanished. When he was asked to explain, he said that such miracles could be found in the Ramayana, the Gita and the Koran. In those days some people would get together and pose as a religious group and forecast that Indira Gandhi's rule would last another six months only. All these were the tricks of United States and Pakistan Let us

[Shri Ram Nagina Mishra]

see what is happening today you are talking of amendments. The United States and Pakistan are making false propaganda today. Here also some people are making allegations that certain persons in the Government are receiving money, who are behind this kind of propaganda? These are those people who were in power yesterday and enjoyed the highest positions but are observing hunger-strikes today. Where was their hungerstrike, when they were occupying important positions in the Government and enjoyed power?

Madam, there cannot be two opinions that on the one hand the foreign countries are spending crores in India and on the other malining our Government.

[*English*]

MR. CHAIRMAN: Please listen to me. You can speak tomorrow.

16.00 Hrs.

DISCUSSION RE: DROUGHT SITUATION IN THE COUNTRY

[*English*]

MR. CHAIRMAN: Now, we will take up the discussion under Rule 193.

SHRI BIPIN PAL DAS (Tezpur): Madam, I take one minute to make a submission before Mr. Gupta starts his speech. He is going to raise a discussion on the drought situation based on the statement made by the hon. Minister. There is no doubt that drought is a serious matter but there is extensive floods in Bengal, Bihar and Assam and the hon. Minister himself visited Assam in this connection. So, I request the hon. Minister to make a statement on the flood situation in the country or allow us to discuss the flood situation along with drought. We will discuss it if Mr. Gupta agrees.

MR. CHAIRMAN: Let us hear what the hon. Minister wants to say.

THE MINISTER OF AGRICULTURE (DR. G.S. DHILLON): Madom, I did not anticipate that he will ask me to make a statement on floods. Let me collect the latest position about the floods. Then I will come forward.

MR. CHAIRMAN: The flood situation is coming under another motion. Since this is listed today, we will discuss the drought situation.

PROF. MADHU DANDAVATE (Rajapur): Let us discuss the natural calamities excepting the Government.

SHRI C. MADHAV REDDI (Adilabad): If somebody wanted to discuss it. He should be permitted to do so.

(*Interruptions*)

MR. CHAIRMAN: Some other motion is coming.

SHRI C. MADHAV REDDI (Adilabad): The hon. Minister can give reply while replying to the discussion.

DR. G.S. DHILLON: I have no objection. I have been there on the spot. But, I think it should be very up to date and unless we get the figures from Assam, it will not be proper for me to make a statement.

MR. CHAIRMAN: Since the hon. Minister is not fully prepared to make a statement on the flood situation, let us take it up when it comes before the House.

SHRI C. MADHAV REDDI: Are you going to finish it today.

MR. CHAIRMAN: We will discuss this upto six. We have allotted two hours.

SHRI INDRAJIT GUPTA (Basirhat): During these rather turbulent days which we had in the House in the beginning of this