

MR. SPEAKER : Read it now; even now you can read it.

SHRI KOLANDAIVELU : I do not see any reason why it has not been taken up.

MR. SPEAKER : There is no reason. You see, they just select... (Interruptions)

PROF. MADHU DANDAVATE : Let him speak and that should be taken as read.

MR. SPEAKER : I will call you. You can give it to me and I will give it to the Minister in Charge.

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11.24 hrs.

TERRORIST AND DISRUPTIVE  
ACTIVITIES (PREVENTION)  
BILL, 1985

[English]

THE MINISTER OF LAW AND JUSTICE (SHRI A. K. SEN) : Sir, I beg to move :

“That the Bill to make special provisions for the prevention of and for coping with terrorist and disruptive activities and for matters connected therewith or incidental thereto, be taken into consideration.”

The Bill is introduced at a time when terrorism from all sides, from the eastern frontier right upto the western frontier is threatening the very existence of the State. We are facing a grave danger and threat; and the last spate of bombings in Delhi and in other towns and areas have shown that behind these acts of terrorism are organized gangs operating not merely with their own resources but we have strong reasons to believe, with great encouragement and help from outside agencies, that foreign hand is clearly visible.

We have waited long enough. These acts of terrorism have been occurring for years now. I am not merely talking of the Punjab, but of other areas also, particularly in the eastern parts of India, i.e. Nagaland, Manipur, Tripura and various other places. (Interruptions)

AN HON. MEMBER : Andhra...

SHRI A. K. SEN : Well; let us not detail them. But we know where they are occurring, and for years. This House has waited patiently, and the Government had also adopted a very lenient approach to these people; and we thought that the ordinary law will be capable of dealing with these men. But the last phase which we have seen in front of us had involved innocent lives in dozens and scores. Men and women have been killed and maimed for no fault of theirs; and I do not know for what purpose.

The difference between terrorism and a political movement is that terrorism has no purpose defined. Its unpredictable purpose is of just creating terror. Its objects and aims are not revealed, now do we know where do they originate from; whereas a political movement is a predictable phenomenon, a movement which has a purpose and a cause, and it can be dealt with if it involves itself in violence and murder, under the ordinary law. But gangs operate to prepare and indulge in acts of terrorism in the dark, and behind the public gaze, whose origin and involvement are not clearly ascertained, whose objects are not clearly defined—it is now found difficult to deal with them excepting by strong measures. I call them strong measures, not because they are strong in the abstract, but because they are strong from the ordinary notions of a peaceful life, when the law and order problems can be met with under the ordinary provisions of law. But we are dealing with a situation which is so extraordinary, which is so pregnant with dangerous potentialities, which is inspired clearly by outside sources and whose aim is to subvert the State completely and destroy the very foundations of our democracy.

Well; we do believe in democracy. We are founded on democracy. We are ourselves committed to the upholding of democracy. Therefore, it is our bounden duty to give a clear call to the nation, and clearly to the people as to how this terrorism, this great menace should be combated; and it must be combated—there is no doubt about it. We must see the end of it, root it out lock, stock and barrel from the fabric of our society, and we shall not see the recurrence of it any further, nor shall we tolerate the recurrence of it any more.

[Shri A. K. Sen]

This House has given a lead unanimously always, whenever crisis seemed to overcome us. I remember the day when the Chinese attack came. Pandit Jawaharlal Nehru was there, Sir; and he moved a resolution for Emergency. And he gave a great call. That was one of the few occasions when he read a prepared speech. He said it in these great words. He said, "this is the finest hour for our people to overcome a crisis which threatens us." When you walk on a bed of roses, there is no crisis to overcome; there is no fire to go through. But when a crisis comes, it envelops us and threatens our very existence. Whenever the finest hours come, the Parliament has never failed.

In 1962, the call came and this Parliament, I remember, passed that resolution unanimously. (*Interruptions*) We also stood up and passed that resolution. In 1965, when Pakistan attacked us, we did the same and we overcome a great crisis and a great threat to our liberty and freedom. In 1971, we again overcame the crisis unanimously; and I remember, Prof. Samar Guha and various others on the other side gave a united hand and extended their hand of cooperation, complete cooperation to Mrs. Indira Gandhi, who had then given a call to fight a great menace. Now, this menace is as great as the danger which we faced when we fought the Chinese aggression, the Pakistani aggression and the Bangladesh war in 1971. The only difference is that at least we knew then where the enemy was located, from where did they attack and how they were operating. But here we do not know from where it is getting inspiration, its resources, explosives and arms.

SHRI AMAL DATTA (Diamond Harbour) : You do not know ?

SHRI A. K. SEN : If you know everything then tell us.

SHRI AMAL DATTA : I do not know whether the Minister should make confession of incompetence of the government; whether he should make that confession openly in the House.

SHRI A. K. SEN : Perhaps the hon. member knows better and is more confident about it.

THE MINISTER OF AGRICULTURE AND RURAL DEVELOPMENT (SHRI BUTA SINGH) : Let us be honest.

SHRI AMAL DATTA : If I had the power of the government I would have know it.

SHRI BUTA SINGH : Those who know are on the other side.

SHRI A. K. SEN : I think in his State of West Bengal... (*Interruptions*)

MR. SPEAKER : Will you allow me to proceed with the business of the House or not ?

SHRI AMAL DATTA : I don't think all this is necessary. (*Interruptions*) Let him come to the substance of it.

SHRI BUTA SINGH : That is what he is doing precisely.

SHRI A. K. SEN : That is what I am trying to do it.

PROF. MADHU DANDAVATE : He will come to that. This is a preamble.

SHRI AMAL DATTA : He may sit down after the preamble. (*Interruptions*)

SHRI BUTA SINGH : Everybody does not know where the extremists are coming from. (*Interruptions*)

SHRI A. K. SEN : The only difficulty is that my learned friend is not moving the Bill; I am moving the Bill and I have to move the Bill the way I think the best.

SHRI AMAL DATTA : What is the necessity of this Bill ?

SHRI A. K. SEN : That is what I am trying to explain and it will benefit the State of West Bengal also where the Chief Minister has pointed out the menace which is threatening there also. (*Interruptions*) We want this kind of Bill for the simple reason that we want to root out terrorism. Let there be no faltering voices in this House on this issue; and if there is, I shall be reluctantly compelled to say that it might give indirect encouragement to those who are indulging in acts of terrorism. This House must declare it openly and unequivocally that terrorism is not to be tolerated. If you want, you oppose it; even then we shall pass it.

**SHRI AMAL DATTA :** You incorporate an assurance that it will not be used against any legitimate political movement and we will support it. *(Interruptions)*

**MR. SPEAKER :** Mr. Acharia, you will get a chance to speak and give your suggestions. This is not the way to do it. I will give you time to speak.  
*(Interruptions)*

**SHRI A. K. SEN :** Kindly move your amendments. All of them will be debated; that is the rule of the House.

**PROF. MADHU DANDAVATE :** Let there not be a debate among the Bengalis only.

**MR. SPEAKER :** Let it not be monopolised.

Hon. Members should have the patience to wait till we make out our submission to the House, that it is not a measure to curb any political movement. That is why I started by saying...*(Interruptions)*

**SHRI AMAL DATTA :** It is not there in the Act.

**SHRI A. K. SEN :** It is in the Act.

**MR. SPEAKER :** Then you point out when the time comes. You can do it yourself. Let him continue. This is not proper.

**SHRI A. K. SEN :** If you want to oppose it, oppose it. *(Interruptions)*

**MR. SPEAKER :** Again you are saying the same thing. You have your time. What is this? This is not the way to oppose it.

**SHRI A. K. SEN :** You oppose it openly. If anybody opposes it, let this House judge the strength of his argument. But I say that this is not meant to curb any political movement.

**SHRI AMAL DATTA :** You say it in the Act. *(Interruptions)*

**SHRI A. K. SEN :** You oppose it instead of raising every minute, and move your amendment. We shall see. But I am saying, let this House not seem to be wavering on such an important measure. If thousands die, the blame will be on us. Then we will be balmed, "Why don't you act firmly?"

**SHRI NARAYAN CHOUBEY :** Sir, he is losing his temper.

*(Interruptions)*

**MR. SPEAKER :** I do not know what you are trying to prove by this. What is this?

*(Interruptions)*

**MR. SPEAKER :** I think I have to tell the hon. Members that is not the proper way. I will give you your time. You have your time and you can say whatever you like. You are interrupting all the time. That is not the proper way. This is not a parliamentary way. He has the right to say. He has the freedom. Whatever you have to say you can say, I will give you your time.

**SHRI AMAL DATTA :** He is saying ...*(Interruptions)*

**MR. SPEAKER :** You are doing something which you are propagating. *(Interruptions)*

**MR. SPEAKER :** He is saying it. If you want to understand you listen tome. Mr. Amal Datta, why are you doing it? *(Interruptions)*

**MR. SPEAKER :** I do not know why you are doing this way. He has to give out his argument. Then you have to put your arguments.

**SHRI AMAL DATTA :** He does not have to go back to 1971.

**MR. SPEAKER :** He is not to be dictated by you.

*(Interruptions)*

**MR. SPEAKER :** Why are you doing it? *(Interruptions)*

**MR. SPEAKER :** This is my job. You are not the Speaker. I will deal with it. Please listen to me. I will give you your time. They will listen to you.

**SHRI A. K. SEN :** Hon. Members can no] doubt move their amendments and we shall not interrupt every minute. When the amendments are moved, we will hear them without interrupting every second. And at that time all the views will be heard:

[Shri A. K. Sen]

But on the fundamental issue of rooting out terrorism from the soil of this country we should all appear to be united and act in unison. *(Interruptions)*

SHRI AMAL DATTA : This could have been done earlier.

*(Interruptions)*

MR. SPEAKER : You have the time. I said so. You do it then. If you are going to do it again, I will be harsh now.

SHRI A. K. SEN : I am saying on various occasions to deal with the terrorists we acted. Then some said, 'You should take a flexible approach', and we took a flexible approach. The entire lot of people detained under the special laws were released. The Prime Minister took the utmost flexible stand.

*(Interruptions)*

SHRI A. K. SEN : Let us be clear about what has followed. Why did we take measure, like that ? Bombs are blasted all over. Sophisticated manufactures that cannot be created by ordinary individuals but by organised gangs likely to have infiltrated from outside, aided from outside.

SHRI NARAIN CHOUBEY : That is the source.

SHRI A. K. SEN : If that is the source, we will fight it with the ordinary law. Mr. Narain Choubey said that I am angry. I am not angry. I am used to put forth my arguments without anger or excitement. And I expect the same from hon. Member Shri Narain Choubey, because I have learnt that getting angry and vehement does not add to the quality of an argument. Therefore, let us come back to the very substance of the matter. The country is faced with an unprecedented situation. The acts of terrorism all over have revealed organised attempts to subvert the State. They have to be combed out, they have to be combated, they have to be fought and they have to be punished. Those who blast bombs and kill innocent people, men, women and children, have not only to be found out but have also to be punished and punished with a firm hand. We have seen what a misery has been caused to thousands of families by all these senseless killings starting from 1982. People have been dragged from buses and killed simply because they do not belong

to a particular community. Doctors, lawyers, innocent people, people from the trade, journalists, Members of Parliament, all of them have become their targets. We do not know the cause, as I said. That is why, I was trying to develop the difference between a political movement and terrorism. A political movement has a cause to fight. If it fights peacefully, it does not contravene any law. If it fights with bombs and pistols, then it attracts the ordinary law. But at least, it is predictable and, therefore, this can be combated by the ordinary law. But the terrorist fights in the dark, fights from the distance uncovered and he comes and strikes whenever he likes without a cause. His victims are mostly men, women and children. That is why, these special powers have to be taken for two purposes—for the purpose of finding out where they are, their hide-out, their plans and actions and various other acts and when they are found out, to punish them.

Let us see one by one what are the salient features of this measure. Clause 3 and 4 are the very heart of this measure. If we read them carefully, we shall find that this is not aimed at all at, any political movement. Clause 3 says :

"Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or fire-arms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, commits a terrorist act."

Let us see what this Bill aims at. By no stretch of imagination the political acts are covered under it. Let us see line 40—any act or thing by using bombs, dynamite or other explosive substances or inflammable substances...causing death or injury to any

person or persons or damage to, or destruction of property; that is terrorism. How can any one in his senses say that this is aimed at a political movement? It aims at those acts where the man acts without any purpose with bombs, inflammable substances, pistols and other lethal weapons of hazardous character and then kills people and destroys property. That is the act of terrorism. Therefore, we have nothing to say excepting to assure you again that the interpretation of this Bill says that this is not intended by any stretch of imagination, to combat political movement, because the ordinary law is good enough if any political movement takes to violence. If it is done peacefully, then no ordinary law is against it. Therefore, let us come to clause 4. It says :

“Whoever commits or conspires or attempts to commit or abets, advocates, advises incites or knowingly facilitates the commission of any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and shall be liable to fine.”

Here there is no death sentence. In the first act, if it results in death, then only death, if it does not result in death, we have given a lighter punishment. For disruptive activity, there is a minimum punishment of three years and a maximum punishment of life imprisonment. Disruptive activity is defined in section 4(2). If the hon. Members can kindly read with me, it says :

“(2) For the purposes of sub-section (1), “disruptive activity” means any action taken whether by act or by speech or song or ballad or verse or words or by any book, pamphlet, paper, writing, record, tape, video cassette, drawing, painting, representation or in any other manner whatsoever,—

(i) which.....”

This is the crux of it—

“(i) which questions, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India.”

There is no political movement involved in this. There can be no compromise on the

question of territorial integrity and unity of India. No political movement can be allowed if it is called a political movement which says that “we want to disrupt India’s integrity, we want to take away parts of India or secede parts of India. That is not a political movement. As the Prime Minister has said repeatedly on the floor of this House, our integrity and unity are not negotiable for anything. Therefore, how can it be a political movement when it flourishes some disruptive act which threatens to disrupt the integrity and sovereignty of India? Let us not call them by name. We know what these movements are from Kashmir to Nagaland, to Mizoram and so on which are aimed at taking away pieces of India’s territory and either making it separate or giving it to others. That is the disruption of India’s territorial integrity and sovereignty. Then 2(ii) says :

“(ii) which is intended to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the secession of any part of India from the Union.”

How can a political movement be at all comprehended within this? I know, the moment it comes up, this question is raised. But let us read the words of the section. No reasonable man reading it can ever say that it is aimed at any political movement. But if a man says, “I am carrying on a political movement for slicing out India’s territory for giving to others”, he will be punished. That is not, according to us, a political movement, that is a disruptive activity. Therefore, these are the only two acts which we are trying to combat and the punishment is not punishment alone which will cure this phenomenon, this dangerous manifestation which has engulfed the entire country in recent times. Therefore, we are giving powers for the purpose of fighting it before it comes to a court of law, and the question of punishment, becomes relevant. We want to prevent its occurrence. We want to destroy it at its very foundation. That is why you will find in sub-section (2) of section 5, that we are giving various powers which are necessary for the purpose of combating this evil, this foul movement of disruption and terrorism, at its very source, so that it does not raise its hands over the entire country and it is destroyed before it kills people or damages property.

[Shri A. K. Sen]

Now, let us see the powers which we are going to give. Sub-section (2) of Section 5 says :

“(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, and may empower any authority to make orders providing for, all or any of the following matters with respect to the purposes mentioned in that sub-section, namely :—

- (a) preventing or prohibiting anything likely to facilitate the commission of terrorist acts or disruptive activities or prejudice the successful conduct of operations against terrorists or disruptionists including—
- (i) communications with persons.....”

Now, this House cannot possibly predicate or cannot predict now sitting here how these forces are going to operate. How they are going to inter-communicate with each other; how they will get their resources, their arms, their lethal weapons from outside. It must be left to responsible authorities to find that out and carry out the necessary operations. That is why the rule-making powers are given.

Then,

“(ii) acquisition, possession or publication, without lawful authority or excuse of information likely to assist terrorists or disruptionists;

(iii) rendering of any assistance, whether financial or otherwise, to terrorists or disruptionists;

- (b) preventing, with a view to coping with terrorist acts or disruptive activities, the spread without lawful authority or excuse of reports or the prosecution of any purpose likely to cause disaffection or alarm or to prejudice maintenance of peaceful conditions in any area or part of India or to promote feelings of ill-will, enmity or hatred

between different classes of the people of India.

- (c) Regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient and the removal of such persons from such areas.”

Well, the Tripura State is managed by the hon. Member, Mr. Datta's party and the Chief Minister's speeches on the terrorist activities are very illuminating. How he is seeking more and more powers to curb. Therefore, these are very necessary powers.

I told you why rule-making power has been given, because this House passing the law cannot foresee how these forces are going to operate behind the scene; how they are going to communicate with each other; where from they are going to get resources, their supplies and other things. Therefore, these powers are left with the rule-making authorities. And there is a Government Amendment. The hon. Members have seen that. We restricted the rule-making power not that it needed restriction. We have said that these powers have to be exercised by the authorities like the Central Government and the State Government. And so far as the Central Government is concerned, no officer below the rank of Joint Secretary and so far as the State Government is concerned no Officer below the rank of District Magistrate will do that. Therefore, we have made it clear—though I thought it is quite clear that it may be done by anyone. So, we have made it clear that only a responsible authority will have the power to do this.

Then we have provided that certain court...

SHRI N. V. RATNAM : I want to rise on a point of order.

MR. SPEAKER : No point of order.

SHRI N. V. RATNAM : It is a very important and pertinent point.

MR. SPEAKER : No point of order. No rule has been broken in this.

(Interruptions)

MR. SPEAKER : Over-ruled. Not allowed.

SHRI N. V. RATNAM : There is a point of order.

MR. SPEAKER : What has he said ? He has not said anything unparliamentary. He has not said anything against the rules. There is point of order.

SHRI N. V. RATNAM : There is a point of order. One minute, Sir.

MR. SPEAKER : I do not find any. No questions please. Over-ruled.

SHRI N. V. RATNAM : It is a fundamental question.

MR. SPEAKER : There is no fundamental question. I over-rule it.

SHRI N. V. RATNAM : There is, Sir.

MR. SPEAKER : You cannot be challenge my judgment. Please take your seat.

SHRI N. V. RATNAM : This cannot be done like this, Sir.

MR. SPEAKER : Absolutely over-ruled. Please sit down.

*(Interruptions)\*\**

MR. SPEAKER : Nothing will go on record.

*(Interruptions)*

MR. SPEAKER : There is no point of order. Nothing unparliamentary has been said and no rule has been broken. Therefore, there is no point of order.

*(Interruptions)*

MR. SPEAKER : No questions. I don't allow you.

*(Interruptions)*

MR. SPEAKER : If you persist, I will name you.

SHRI AMAL DATTA : This Motion should have been moved by the hon. Home Minister.

*(Interruptions)*

SHRI A. K. SEN : It is abundantly clear that I am not jealous of the Home Minister when the affections are showered at him.

SHRI BUTA SINGH : Was he sleeping at the beginning. Where were you ?

MR. SPEAKER : Order now. Nothing can be done now. Will you please take your seats now ?

SHRI ASHOK SEN : Sir, let us go back to the Bill.

PROF. MADHU DANDAVATE : If he takes your permission, he is allowed. Even a Railway Minister can move it, Sir.

MR. SPEAKER : He should have raised it at the earliest when he was starting. He could have done it, I would have allowed him. There is nothing now.

THE MINISTER OF AGRICULTURE AND RURAL DEVELOPMENT (SHRI BUTA SINGH) : Sir, why even a Railway Minister ?

SHRI ASHOK SEN : As a point of law, he can if he wants to. Now, Sir, this is the responsibility given to me by the Government to move.

MR. SPEAKER : If he is not satisfied, I can call upon Mr. Bhagat to move.

SHRI ASHOK SEN : Sir, I take it as a humorous touch extending the bounty of affection to the hon. Home Minister, and I have no doubt that the hon. Home Minister will say something in the course of the debate and he will allay the suspicion that he is not going to speak.

MR. SPEAKER : We are only against, the terrorists, not the Home Minister.

SHRI ASHOK SEN : Now, let us come back to the Bill. We have provided death penalty to make it a part of the Bill.

PROF. MADHU DANDAVATE : Mr. Buta Singh ought to have moved it.

SHRI ASHOK SEN : For the purpose of trial by Designated Courts, if the Government so thinks that this is necessary, we have defined who the Designated Court are—all Sessions Judges, and you will find there it was mentioned when the Designated Court is called upon to act. Section 8 on page 7 says :

“A Designated Court may, if it considers it expedient or desirable so to do, sit for any of its proceedings at any place, other than the ordinary place of its sitting in the State in which it is constituted.”

This is very necessary having regard to the disturbed areas where the court may not be able to function properly and it is left to the court to select which place to sit so that no equibbling about the jurisdiction and various other things can be raised about its location.

Then, if you come to Section 9 it is very important. Sub-section (1) of Section 9 says :

“Notwithstanding anything contained in the code, every offence punishable under any provision of this Act or any rule made thereunder shall be triable only by the Designated Court within whose local jurisdiction it was committed.”

That means, that the Designated Court within whose jurisdiction the particular act is committed.

If you come to sub-sections (2) and (3) of Section 9, they are very important.

Section 9 (2) says :

“The Central Government may, if satisfied on the recommendation of the State Government or otherwise that it is necessary or expedient in the public interest so to do, transfer with the concurrence of the Chief Justice of India (such concurrence be obtained on a motion moved in that behalf by the Attorney General of India) any case pending before a Designated Court in that State to a Designated Court in any other State.”

We may think of various contingencies which may arise in any area where the court's function may become difficult and therefore, if such a contingency arises, with the con-

currence of the Chief Justice, that case may be transferred from that Court to some other Court and we are putting the ground, where it will be done.

Sub-section (3) of Section 9 says :

“Where the whole or any part of the area within the local limits of the jurisdiction of a Designated Court has been declared to be, or forms part of, any area which has been declared to be a disturbed area under any enactment for the time being in force making provision for the suppression of disorder and restoration and maintenance of public order, and the Central Government is of opinion, whether on receipt of a report received from the Government of the State in which such court is located or otherwise, that the situation prevailing in the State is not conducive to fair, impartial or speedy trial within the State, of offences under this Act or the rules made thereunder within such court is competent to try, the Central Government may, with the concurrence of the Chief Justice of India, specify, by notification in the Official Gazette, in relation to such court (hereafter in this sub-section referred to as the local court) a Designated Court outside the State (hereafter in this section referred to as the specified court), and thereupon—

“(a) it shall not be competent, at any time, during the period of operation of such notification, for such local court to exercise any jurisdiction in respect of, or try, any offence under this Act or the rules thereunder.”

12.00 hrs.

The difficulty is that you cannot give jurisdiction to two courts simultaneously. It might violate the principle of procedural equality. That is why, once it is transferred to a particular court, then the other court ceases to have jurisdiction so long as the notification remains in force.

We have given the powers to the Designated Courts, the same powers, as you will find from Section 10 onwards. The procedure laid down from Section 11 onwards, is more on the lines of the same procedure as it is in the Criminal Procedure

Code. Then, you will find in Section 13 that we are providing that it should be normally in camera excepting that if the Public Prosecutor thinks that it should be tried in the open, then it should be so done.

Section 13 sub-section (2) p. 10 :

“(2) A Designated Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.”

It is of the utmost importance that the safety and security of witnesses is very much involved and it is openly said that whoever goes to depose against any of those terrorists will meet their fate and that is sealed for him. Therefore, we may have to keep the identity of the person secret.

Section 13 sub-section (3)(a) says :

- “(a) the holding of the proceedings at a protected place;
- (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed.”

Section 14 :

“14. The trial under this Act of any offence by a Designated Court shall have precedence over the trial of any other case against the accused in any other court (not being a Designated Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.”

Suppose a man is an accused in a Designated Court under Terrorist Act and he is an accused in another court also. This trial cannot be held up because he is an accused in another case. Under this Bill, if a man is an accused in some other court, then we are saying that this will have precedence and other trials will remain in abeyance until this is completed.

In Section 15, we have taken the power to transfer and it is in these terms :

Section 15 :

“15. Where after taking cognizance of any offence, a Designated Court is of opinion that the offence is not triable it.”

Only the offence of terrorism is tried there. Suppose an offence which is alleged before it is not a terrorist offence within the definition of Section 3 or a disruptive offence within the meaning of Section 4, then it will be transferred, like, as you know, the committing Magistrate where he finds that it is a matter which has to be tried in the Sessions Court, it has to be sent to the Sessions Court as a matter of course. Therefore, he has to send it, transfer the case for trial of such offences to any court having jurisdiction under the Criminal Procedure Code to try such offences other than terrorist offence. This is important for these who think that other offences will be tried by Designated Courts. No. The moment it is some other offences other than the offence made under this Act, it will be tried by the ordinary court.

Then we have provided for an appeal to the Supreme Court against any order or trial.

This is in substance the character of this Bill and it is very clear that we are aiming at exclusively and solely against terrorists and disruptionist acts and these are tried by Designated Court in the area or outside the area, as the case may be. And in each case, we have safeguarded the position very clearly, namely, the act of transfer from one Designated Court to another will be at the instance of the Supreme Court, with the concurrence of the Supreme Court. The act of transfer from one Designated Court to another in the same area will be with the concurrence of the Supreme Court. Therefore, we have tried to safeguard the possibility of any excess.

With these words, I recommend this motion for acceptance of the House un-animously.

I appeal once more for acceptance while we express divergence on various details about it which is inevitable. But let us not appear that, on the fundamental question of

[Shri Ashok Sen]

terrorism, this House is divided. This House must declare unequivocally its opposition to terrorism and its firm determination to root out terrorism. For, this House alone can make that plea and none else. Let us not be divided on that issue.

MR. SPEAKER : Motion moved :

"That the Bill to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be taken into consideration."

SHRIMATI GEETA MUKHERJEE (Panskura) : Sir, I beg to move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1985."(1)

SHRI BASUDEB ACHARIA (Bankura) : Sir, I beg to move :

"That the Bill to make special provision for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be referred to a Select Committee consisting of 9 members, namely :

1. Prof. Madhu Dandavate
2. Shri Amal Datta
3. Shri Indrajit Gupta
4. Shri C. Madhav Reddi
5. Shri Amar Roypradhan
6. Shri Asoke Kumar Sen
7. Shri Piyus Tiraky
8. Shri K. P. Unnikrishnan; and
9. Shri Basudeb Acharia

with instructions to report by the first day of the next sessions."(2)

SHRI SATYAGOPAL MISRA (Tamluk) : Sir, I beg to move :

"That the Bill to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be referred to

a Select Committee consisting of 12 members, namely :

1. Shri Basudeb Acharia
2. Shri Anil Basu
3. Shri Ajoy Biswas
4. Shri Amal Datta
5. Shri Suresh Kurup
6. Shri Sanat Kumar Mandal
7. Smt. Geeta Mukherjee
8. Shri Amar Roypradhan
9. Shri Ajit Kumar Saha
10. Shri Asoke Kumar Sen
11. Shri Zainal Abedin; and
12. Shri Satyagopal Misra

with instructions to report by the 1st day of the next sessions."(8)

SHRI C. MADHAV REDDI (Adilabad) : Mr. Speaker, Sir, I rise to support the principle of the Bill. I want to express the general feeling of the Opposition that on the issue of terrorism there are no two opinions. We all support the measure aimed at curbing terrorism in this country. There are certain Clauses in this Bill which certainly need to be looked into very carefully. The hon. Law Minister was explaining the various Clauses; he almost converted the whole debate into a clause-by-clause explanation or discussion. I expected that he would explain the general principles of the Bill. That would have been enough. Anyway, he has conveniently avoided certain Clauses which are more controversial, which need to be looked into very carefully by this House. But I reciprocate the feelings of the hon. Law Minister that the Opposition wants to cooperate fully with him in passing this Bill unanimously provided this Bill is not treated as a ruling Party or Government Bill only and the amendments moved by the Opposition are also considered on merits. Because, as we all know, this is a Bill which seems to have been drafted in a hurry, introduced in a hurry and now being considered in a hurry; the Opposition Members also have given notice of their amendments in a hurry. Hence there is room for confrontation. This

being the case and since we have the whole day before us, I would like the House to go into each and every amendment carefully...

MR. SPEAKER : The situation demands you to be in a hurry.

SHRI C. MADHAV REDDI : The amendments have to be looked into very carefully and if they are found to be good, if they are found to be suitable, they should be accepted irrespective of the fact whether they have been moved by the Opposition or the Government benches.

On the floor of this House, on several occasions before, we have expressed that we are fully in support of the Government in bringing about any measure to curb terrorist activities in this country. On this, there are no two opinions. But in our anxiety to see that terrorism is curbed and the law is passed, we should not lose sight of certain fundamental principles. Whatever we do should be in accordance with the due process of law and we have to see that it is not questioned in the court of law; the legislation should stand tested. In this light I feel that there are certain aberrations which have to be looked into. Particularly I refer to Clause 18 which is the most controversial Clause. In this connection I would like to say that, as the House is aware, law and order is a State subject and for the first time a Bill is being introduced and certain powers are being taken over by the Central Government under this Bill concerning mainly to the State

12.10 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Government. As we are aware, the State Governments have their own machinery of law and order. The law and order machinery is not controlled by the Central Government. In this Bill there are several sections concerning the State Government; the State Government is going to appoint the Judges. The State Government is going to appoint the Public Prosecutors. Several of these clauses concern the State Government and the action is to be taken by the State Government machinery. Why should the Central Government think of having concurrent powers with the State Government in this respect? I do not understand it. Don't you trust?... (Interruptions) Don't you trust your own State Governments which are constituents of this Republic? Suppose you are afraid

that a particular State Government is not very keen to curb the terrorist activities in their State, you have several alternatives. Under Articles 257 and 365 you can proceed against the State and you have been doing it in the past and the Constitution is not coming in the way and nobody is going to prevent you from resorting to those Articles of the Constitution.

What I mean to say is that in this respect certain Opposition-ruled governments are very, very agitated and we feel that the implementation of this Act should be left to the State Government only and the Central Government should be satisfied with framing the rules and leave the implementation to the State Government.

Another point about which I would express my opinion is about punishment. I agree with the object of the Bill that we have to give deterrent punishment to the terrorists and secessionists. There is no doubt about it. I have no sympathy for them and this is a very extreme situation and a very dangerous situation and in an extreme situation of this type we need such a Bill. Of course, it is going to be for 2 years and I hope it is going to be in force only for two years. I would like the Government to give an assurance to the House that this Act is not going to be extended from time to time. And I would also like the Government to assure this House that this Bill is not going to be used to suppress genuine political activity in the country it would be used... (Interruption) Not for the activity which is ultimately going to suggest or lead to secession. We have no sympathy for those people who indulge in secessionist activities. Absolutely we have no sympathy for those people who indulge in killing, looting, arson and with the object of creating terrorism in the country and creating conditions of chaos so that the stability of the country is disturbed. Certainly, we have no sympathy for them. But there is a possibility if its misuse because we have seen it in the past. We have been having such laws which have been described as draconian laws, which have been misused in certain times. Naturally, the fears of the Opposition Parties are quite genuine and they would like to be assured—not that they do not want to co-operate with you. I would like the Law Minister to look into these things,

[Shri C. Madhav Reddi]

I shall refer to another clause—clause 4 which deals with punishment. Now I find that if a man commits a crime, a serious crime, a terrorist activity, he is liable for life imprisonment or even death sentence. But suppose a man abets him, the real culprit, the man behind the man who commits the crime, if he abets and instigates and incites that particular person to commit the crime, he is left with a minor punishment, with a lesser punishment. Why? The real man who committed the crime is the man who has instigated, who has given a particular person to place a bomb as a particular places; that man has committed that act. But the man who has instigated is left with a lesser punishment. That is the lacuna in the Bill. I believe that should not be there. As a matter of fact; this is a lacuna which is not there in the Indian Penal Code because IPC 120(b), I suppose, says that he should be given equal punishment. Why there is such a distinction here in this Bill and particularly for a terrorist activity? For other things this distinction is not there. I would like the Law Minister to have a look at this. I would also request the government to look at it from an objective point of view and see that this Act is passed unanimously and see that the Opposition parties cooperate with the government by accepting certain of the amendments of the Opposition, particularly the amendment which we have made with regard to the exclusion of those powers which are being taken over under Clause 18. This has to be deleted otherwise the State governments will be in an embarrassing position because we do not know what are the situations under contemplation with the government where it would be necessary for the State government or the Central government to act independent of the State government. That we are not able to understand. These are my comments.

**SHRI CHANDRA PRATAP NARAIN SINGH (Padrauna):** Sir, I am very grateful to have been given an opportunity to speak on this Bill. Before I say that I welcome the Bill I would state one fact which has been overlooked by the government and governments of the past. The terrorist activity in Punjab today has forced the government to come up with a Bill in a very hurried manner. This Bill should have come up when there were movements in Nagaland, Mizoram and Tripura. Why didn't they come up at that

stage because military personnel were being slaughtered and local population were being slaughtered? Today we introduce this Bill and talk of the unity in the House regarding unanimity and agreement. The people of India who have believed in the teachings of Lord Buddha, in the principles of Mahatma Gandhi have never accepted terrorism. It is when a government gets slack and a government at a stage when things go beyond control bring an Act that the people of India to a certain extent start believing that the government is not acting on their behalf and in time.

I would like to quote one or two lines which are stated in the Statement of Objects and Reasons :

“Terrorists had been indulging in want on killings, arson, looting of properties and other heinous crimes mostly in Punjab and Chandigarh. Since the 10th May, 1985, the terrorists have expanded their activities to other parts of the country...”

May I ask—and I do not think the hon. Minister will be able to answer each question but, I hope, he will answer our questions in a written form later—as to what was happening after August, 1980 when in Punjab wanton killings and terrorist movements had started? Has it taken four years and the assassination of one of our greatest Prime Minister to wake us up for a terrorist bill? What has been happening?

Terrorism is an international phenomenon—a phenomenon which is akin to a culture of violence and not to a culture that is Indian. What has our Pseudo-modern society been inciting, a culture of violence through our media? If you see some of the films that have been produced in this country there is a change in the attitude of the producers of this country who today seem to make films where violence and crime go above policemen and the police are made to be people who can't catch criminals and these criminals are idolised by millions in this country. What sort of video films are being smuggled into this country? Mostly violence. These films and other things do, change society. There should be an awareness, an awareness in the culture of this country; an awareness of the ideals of this country that have to be thought of, once again. When a Commissioner in Gauhati is shot down, was there law and order?

Thousands and thousands of army personnel have been killed in various actions. The hon. Minister quoted the example of Chinese aggression and of the various Pakistani aggressions. But what happens? Whenever there is a problem in any State the hon. Member Mr. Reddy says that it is a State subject. But when a State asks for the army to move it does not the Centre indirectly take over?

SHRI C. MADHAV REDDI : Only to help the State.

SHRI C. P. N. SINGH : Law and order is not a subject of discussion; law and order is a matter of discipline of our society. It is a very important ingredient of civilised humanity. Our culture, our traditions, have always adhered to these policies. But today what we see is the opposite. Society I think is provoking and promoting terrorism. Nobody likes wanton killings; nobody likes wanton bombings. But our media must be curbed if we are to put down this sort of terrorism. Who are the young people involved in killing and shooting people? Young unemployed people of this country who do not get jobs, who are incited, who are fascinated, by our media, which promotes people who live beyond their means.

PROF. MADHU DANDAVATE : Our Prime Minister was killed by an employed person.

SHRI C. P. N. SINGH : Prof. Madhu Dandavate is a very learned professor; and I thank him for telling me that he was an employed person.

PROF. MADHU DANDAVATE : No defamatory remarks, Sir; he is calling me learned!

SHRI C. P. N. SINGH : I thank him for reminding me that it was an employed person who shot Mrs. Gandhi. I did not say that employed people do not get involved. I merely said, there are many thousands who are unemployed who are attracted by easy money, and by people who incite them to do acts of violence. The learned opposition member made a point by saying that a person who incites somebody goes scotfree. A person who shoots somebody at the instance of another will come under the purview of this Act and even under the Criminal Procedure Code. But what about the anti-social

elements who brovoked them to shoot, murder, loot and pillage and do various other nefarious activities? Those people today are accepted Members of society because our tradition, our political heritage, is undergoing a very vast change. We talk about the western world, but the western world is turning to us, towards spiritualism. Spiritualism is a way of life and an important ingredient of India. Let Government first introduce various other measures by which our old values can be maintained and then only can we hope that terrorism would go. Let in rip terrorism in the bud.

Another thing in the statement of objects and reasons of the Bill, as I read earlier, is—I feel—that this mention of heinous crimes most in Punjab and Chandigarh is a wrong thing to do. We will be alienating every Sikh. We have introduced this Bill and it seems to be obvious that in this country not every Sikh is a terrorist. What about the people in Nagaland Tripura, in Mizoram? This mention of Punjab and Chandigarh alienate the great race, the Sikhs, who have done a lot for the country. I would like that when a Bill is introduced, we should not mention these particular areas of the country. This mention, I think could, in the aims and object of the Bill, lead the Sikh to feel that the Bill has been introduced for them.

PROF. N. G. RANGA : In those areas, Hindus are also there. Muslims and Christians are also living.

SHRI C. P. N. SINGH : Sir, what I would like to point out is that in the case of terrorists in this country all over, let us see that we handle the situation correctly. We talk of wanton killings in Chandigarh and Punjab. I would like the hon. Home Minister to find out how many people have been killed in Dhanbad, in Bagha, in Betia and also in the Eastern districts of U.P.

AN HON. MEMBER : Kosi in Bihar also.

SHRI C. P. N. SINGH : Gorakhpur in Eastern U.P. is called the Second Chicago according to the British Broadcasting Corporation of U. K. Do we wait till the terrorists' movement in that area becomes serious enough and some big dignitary is shot or some big dignitary is attacked and then will we have a separate Bill again for that

[Shri C. P. N. Singh]

area? These are the things we have to consider.

Sir, terrorism, when it attracts attention, leads to serious consequences. Terrorism can be curbed if there is a will. This Government fortunately has a will and we hope that, under the dynamic leader Shri Rajiv Gandhi we in this country will have more such Bills which the Parliament will pass and violence leaves the very shores of our country.

SHRI JAGANNATH RAO (Berhampur) : Mr. Deputy Speaker, Sir, I rise to support the measure now before the House. It has not come a day soon. Terrorists activities which started in Punjab and Chandigarh have spread to Delhi and other neighboring States with international ramification. The wanton killing of men, women and children who are innocent clearly shows that there is a deep-rooted conspiracy, international conspiracy to destabilise the country and create panic among the people. But in times of crisis, our people have risen to the occasion and stood as one nation defending the honour, the integrity and unity of the country. We have seen in the past several such occasions as quoted by the mover of the Bill.

Sir, terrorism in India has no ideology or philosophy behind it. What is its philosophy? It is a violent movement started by two young men who were recruited by the fundamentalist. Akalis, who supported the agitation which consequently went out of control, could not control them. Now, the extremists are controlling the situation and the so-called leaders of Akalis are in the hands of the extremists and terrorists.

Terrorism in India is an ideology, Nothing can be achieved. It is said that it is because of frustration. What were their objectives and aims? What did they want and what did they not get which has resulted in frustration? In fact, they want to use it as a weapon to coerce the Government, to rouse passions amongst the community so that the whole unity of the country is disturbed and the country destabilised. Therefore, a time has come when the terrorist activities and disruptive activities have to be put down with an iron hand. In the last Lok Sabha, in August last, we passed the Terrorist Activities (Special Courts) Bill. The definitions of terrorist

activities and terrorist affected areas are practically the same. They are *in pari materia* with this Bill, though this Bill is more explanatory of these activities. We have appointed special courts in those areas. In Punjab, the whole State is divided into special zones and special courts were established. The same procedure is now provided in this Bill, for example to appoint judges with the concurrence of the Chief Justice of the High Court, appealing to Supreme Court, transfer of cases from one court to another court by the Supreme Court, holding trial in camera and so on. All these provisions are there. That Act was passed by this House and the Special Courts are functioning. I would like to know what will happen to the cases pending before those special courts under that Act when this Bill becomes an Act.

SHRI A. K. SEN : They will have to be designated.

SHRI JAGANNATH RAO : The overriding power is given in Clause 22 of the Bill. I would like to know from the mover of the Bill whether the pending cases before the special courts will get automatically transferred to designated courts or you will call those special courts designated under this Act. That is a matter of procedure.

We have to see that terrorism had no place in India. India is a land of sages and saints. The Mahatma, the great *atma*, the great soul believed in non-violence and peace; he believed in one race, that is the human race. He did not believe in discrimination of people by reasons of colour, caste and creed. This country where we live is considered powerful today not because of military strength, but because of the moral values we cherish and which we have been cherishing. Therefore, it is the duty of every citizen to see that whatever be the demands of any section of people, they are negotiated with the Government, they should resort to lawful measures to see that they are accepted and not resort to violence and terrorism to create panic. The arm of law is long enough, but it should also be strong enough to curb these activities. Therefore, this Bill is intended to strengthen the arm of law, to give sufficient powers to Government to contain terrorism, wherever it exists, not only in Punjab,

Chandigarh or Delhi but anywhere in the country.

It is said that the powers of the State Government are being taken away, and that there is encroachment on their powers. It is not correct. It is a Central Act, and powers are being delegated to the State Governments. State Governments will constitute designated courts, appoint judges in consultation with the Chief Justice of the High Court and they will do everything. Therefore, there is no question of any encroachment on the powers of the States by the Centre: We passed the previous Act, the Terrorist Affected Areas and C Special Courtt Act....(Interruptions). Even under the Criminal Procedure Code, a case can be transferred from one court to the other, or from one State to the other by the Supreme Court. That procedure is there. There is no question of deviation from the established procedure in the matter of criminal cases. Therefore, there is nothing unusual or nothing extra-ordinary or nothing arbitrary. This measure is highly necessary. Perhaps, it should have come much earlier. But it has come all the same. Therefore, we have to see that this Bill is implemented and given effect to by the Central Government and the State Governments wherever it is found necessary. The previous Act, *i.e.* the Special Courts Act of 1984 is already in force. Therefore, it is the duty of every citizen to think in terms of peace and not of violence because this is the land of Mahatma Gandhi, who ironically fell victim to the assassin's bullets. So also, Ind'raji too feel victim to the assassins' bullets. In a country, here peace prevailed, terrorism has taken toll of precious lives. Such things will be allowed to happen no more and we should see that differences between people do not develop into disputes and disputes do not escalate into conflagrations. So, this Bill is highly necessary and I do not see any reason, for any point of difference in any clause of the Bill and this Bill needs no opposition from the Opposition parties.

The usual objection from the Opposition is that it is intended against the political opponents. If a political man—an M. P. or an M. L. A. commits acts of terrorism or disruptive activities, certainly he is liable. He is not privileged and he is not above law. Therefore, there is no meaning in saying that it is intended against the political opponents.

Let the political opponents behave properly as honourable citizens and the law will not affect them and the law will be a dead letter, so far as they are concerned. This is the usual objection raised by the opposition members to any Bill which is brought forward by the Central Government. They say that it is draconian. What is draconian? At the same time, they accuse that the Government is going on a soft line and is not taking strong steps. When the Government comes forward with a measure which is strong and which is necessary, then they criticise the Government saying that it has brought a draconian measure. Blowing hot and cold is the characteristic of the opposition members. Therefore, I wholeheartedly support this Bill and I hope the House would accept it unanimously. Thank you.

SHRI N. TOMBI SINGH (Inner Manipur) : Mr. Deputy Speaker, Sir, this is a special Bill undoubtedly and it is remarkable that the hon. Law Minister has not given any general political colour to it. He has maintained throughout in the introduction of this Bill that it is meant only to curb terrorism and disruptionist elements and not aimed at any political party or community and much less against the Sikhs Community. I also appreciate the Opposition for giving assurance of cooperation to the Government, so far as this Bill is concerned. I am very much in agreement with my non. friend Shri C. P. N. Singh, who had observed that this Bill or a similar provision is delayed already. It is long over due, because since early fifties, several points of in the country, particularly in the North Eastern Region—from where I hail—in the name of insurgency or extremism, or terrorism or underground movement, you can call it in whatever way terrorists elements are at work and these can be dealt with by the provision of this Bill. People have been killing and have been killed in these areas. It would have been quite in the fitness of things that such or similar measures should have been taken, as soon as those uprisings which we know by the name of insurgency or terrorism happened in those areas. Although this Bill has been drafted hurriedly, it is a good draft, although amendments here and there are called for. This is quite understandable, but I would like to observe something about the way the objectives have been drafted. From the Statement of Objects

[Shri N. Tombi Singh]

and Reasons, it would appear that Government did not wake up to this need, till some bombs blasted at the Kashmere Gate inter-State bus depot, *i.e.* when these bomb blasted and acts of terrorism occurred under the very nose of the Central Government in the Capital. This is indicated in the statement of the Objects which of course will not form part of the Act, but it indicates certain lacunae. This only indicates that those who drafted this Bill did not pay the necessary premium to the benefits by their experience. Otherwise they could have mentioned that offences and acts of such a nature were there over the last several decades, and that terrorists and criminals who committed these crimes had to go unpunished. And to deal with them, these measures could be adopted to replace the insufficient measures resorted to in different parts of the country.

I will confine myself to one or two aspects of the Bill. I would like to draw the attention of the House, drawing particularly from my sources namely the experiences I have gathered in my own areas. There is nothing like a good law. Laws are good, and are well drafted in most cases, particularly in a country like ours, which is a free country. Our democracy is a good democracy, undoubtedly.

I remember once a foreigner who had settled in our country for about five years, told me about the beauty of our democracy. She was married to one of our citizens. She was waiting for naturalization.

She had to be divorced. But she was telling her friends. "I do not want to go back to my country. Ours is a rich country, full of prosperity. But there is no freedom there. Despite your poverty, backwardness, illiteracy and all these things, I love your country, because you are full of freedom, and there is full democracy in your country."

In this land where full democracy functions, all laws have the best of objectives. But here is a caution to be sounded, because in spite of the goodness of the law, adequacies of the law, what is good in the law should rather be expressed in its implementation. The test of the pudding lies in the eating. We have seen that good laws have been misused in different situations, particularly where we handled difficult situations,

and when we enforced the laws in the context of agitations, provocations and insurgency in the border areas. I am speaking from experience in my own region *viz.* Manipur, Nagaland and Mizoram, what happened to those four units? Two of them are States. Mizoram continues as a Union Territory. Now Tripura is also coming in the list of insurgency-affected areas. In these areas, what happened actually was that in the absence of such a law, the military had to be brought in, the para-military forces had to be brought in, and even the State police forces had to be used and over-used. The implication of enforcing the Special Armed Forces (Nagaland and Manipur) Act in these areas was this: Every Jawan of the Army had taken upon himself the entire negative power of the State, and he could not be questioned when he killed either an extremist or a mere suspect or somebody who happened to be a victim of the bullets of the police and the jawans through mistake. Therefore, whenever laws, such powerful and strong laws are enforced, what is important is that the implementing agency should exercise due restraint and proper caution which can come out of due exercise and training. This new law should not weaken the roots of our democracy. It should rather strengthen them. This Bill which is going to become a law, the provisions of this Bill, will be enforced for two years. Let us hope that they will be in force only for two years. But I have my doubt, as some other hon. members have some have already expressed similar doubts. The provisions of this Bill, I think, will be a permanent necessity or more or less a long necessity for years to come. But the government, in its optimism in its wisdom, has indicated that it will be in force only for two years. Let us hope that it will remove all the elements of terrorism in two years.

There are two ways of removing terrorism and insurgency. Where there is any movement, any insurgency or terrorism, whether we call it political or not, if this is not done by an insane individual, if it is done by some group, it is always politically motivated. The only point is that we are not going to encourage group terrorism or political terrorism. That far, it is all right. But I have suggested that there are two ways of meeting terrorism and insurgent elements particularly extremism which is going on in the border

areas like the north-eastern States, and Kashmir; of course, in Punjab, it is in a frightening scale, it has been discussed at the forum and very rightly our leader has advised us not to go into further details about Punjab; we have already discussed it adequately. So, I do not want to repeat those things. In 1950 when Nagaland became insurgent, we could not anticipate that other States would also become insurgent. They have to be not by military force but by political solution. They have become States and Union Territories inspite of their certain weaknesses and drawbacks. This only explains that whenever there is an uprising movement, organised movement, violence resorted to, we have to resort to this kind of law and detect the criminals and punish them; the legislative measures are not enough. We have to follow it up economically, socially and politically so that we remove the root causes of such movements.

Certain clauses have been provided for the transfer of cases in designated courts from a State in which this incident has happened to other States where better atmosphere for peaceful trials prevails. This is quite understandable and it is also provided by a suitable amendment from the government side. There are three aspects of the law, namely the provisions of the act, the Rule making powers and of order making by authorities *i.e.* If you do not define the rule making and order making authorities, serious difficulty will arise, because in certain cases we have seen even the Superintendent of police making laws, passing orders taking advantage of people's backwardness as if his orders will appear as final laws. This is certainly happening in areas where special Armed Forces Power Act has been in force. People cannot dissent their right because they have no means, they have no guts to go for their legal redressal of their grievances.

Sir, therefore, the order making authorities should be carefully defined and it should be ensured that they do not misuse the law, so that the new laws do not become weapons for harassment of the innocent common people not weapons the common people are sanderiched between against the terrorists and more so, trained extremists, they attack others, they hit and run. All cases are hit and run cases, why the Police arrive at the scene of occurrence.

Who are the actual sufferers in this? Innocent people who innocently stand by. These people face the music and those injured in the encounters after a terrorists acts are usually branded as criminals by the police who even do not hesitate to plant to stablish weapons in the custody that the police caught the man in possession of the weapons. In fact our law implementing agencies like the Police who have to arm themselves should exercise lot of restraint in using this law.

I support this Bill because we are very much in need of it. The measure has been long overdue. Our only complaint is that in the absence of such a law indiscriminate killing had taken place. I hope that this law, will remove not only the symptoms we are now dealing, the symptoms of insurgency, political insurgency but we shall also remove the causes of insurgency and ensure the integrity of the country, by strengthening social atmosphere for the social economic development of the country. The extremists have to be put down with firm hand with these words I support the Bill and conclude.

THE MINISTER OF PARLIAMEN-  
TARY AFFAIRS (SHRI H. K. L.  
BHAGAT): Since there are many hon.  
Members who want to speak it is suggested  
that we may dispense with the lunch hour.

MR. DEPUTY SPEAKER: Yes, since  
there are many hon. Members who have  
given their names, we can dispense with the  
lunch hour.

SHRI NARAIN CHOUBEY: There  
should be a break for lunch.

SHRI BASUDEV ACHARIA: We  
should have lunch hour.

MR. DEPUTY SPEAKER: It is only  
to accommodate some of our Members.

SHRI NARAIN CHOUBEY: You  
curtail that side.

MR. DEPUTY SPEAKER: Time is  
allotted to them.

I went to know the opinion of the  
House.

SHRI G. G. SWELL: Agreed. No  
lunch hour.

MR. DEPUTY SPEAKER : No lunch hour.

SHRI AMAL DATTA (Diamond Harbour) : I rise to speak on this Bill with a very heavy heart.

We are now confronted with a situation where the Government can show that it is up and doing by bringing such a Bill. The title of the Bill is very attractive as if by enacting this Bill they will be able to root out all terrorist activities everywhere in the country. That is what the Law Minister while introducing this Bill has said. But I had expected that the hon. Law Minister, who is also a very learned and eminent lawyer of the country, would at least explain to us, humble Members of this House, as to what was the necessity, exact deficiencies or lacunae to fill up for which this Bill was required. We have not heard anything at all from him. During his speech I asked him as to what about the terrorist affected areas special courts Bill enacted by this House only in July last year. He did not give any answer during his speech as to how the present Bill differed from that Act. Now, some hon. Members from the ruling party, have pointed out that this Bill and that Act are not at all different. They are only creating two offences which are not there. Those offences could have been created in many other ways. Those offences are already there in the Indian Penal Code. But notwithstanding that, this Bill has been brought. And the only reason I can find for this Bill to be brought now is not really to effectively tackle terrorism but to effectively tackle the voice of dissent against this Govt. which is now being raised from all corners of the country as the Government has now realised that the promises on which it has come to power, it will never be able to fulfil. The prices which we thought would start rising slowly because of the Budget, have started already rising very fast creating discontent all over the country. No doubt, the acts of terrorism have taken place in Delhi. I do not know why the Government could not find out that the terrorists are so active in Delhi or near about Delhi. If they could not find it out, then that is an admission of their incompetence and importance. If they have brought this Bill only for that reason, that is a clear admission that they will never be able to tackle the terrorists, because if they cannot prevent

a terrorist activity, then there is no point in this bill of the catching them you have all the powers under the Indian Penal Code to punish them. If you want to make the punishment very stringent, you could have done that by simply amending those sections of the IPC. The only reason I can say is that the Central Government now wants to assume the law and order power all over the country. That is exactly what my hon. friend, Mr. Madhav Reddi, has pointed out. Very innocuously a clause has been introduced in this Bill—clause 18—by which the Central Government is being empowered to take away all the powers given to the State Governments.

PROF. MADHU DANDAVATE : It is not innocuously but cautiously.

SHRI AMAL DATTA ; Where they are giving the powers to the State Governments, that is clause 7 of the Bill. They are already in very bold letters. If you have a look at that, you will find that in para 3 which starts with clause 7 with the heading Designated Courts, then the entire clause 7 consisting of six sub-clauses, all are in very bold prints, so that a person, who is very hurriedly going into the Bill, which this Government always intended and still intends—even though the Bill was given to us on Saturday, the time was really not enough to study it—does not find anything wrong in the Bill.

SHRI H. K. L. BHAGAT : So, you make a distinction between a bold print and an ordinary print.

SHRI AMAL DATTA : Why do you do it? If you do not make a distinction, then why do you give something in bold print and something in ordinary print? The reason is very obvious. Immediate one would see that the State Government has been given the powers.

13.00 hrs.

Therefore, those of us who are always advocating that the State Governments' powers must not be encroached upon will be satisfied. But when one goes to part IV, Section 18, there they say :

“(1) Any power exercisable by a State Government under this Act may be exercised by the Central Government

with the same effect as if such power had been conferred directly on the Central Government and had been delegated by that Government to such State Government."

Delegation is already enacted by the Act. Why did not they say that the Central Government will do it? Why did not they say in the bold print that the Central Government may constitute courts? Just to deceive us. I think that is the purpose. Let it go on record.

PROF. MADHU DANDAVATE : The Central Government should be deemed as a State Government.

SHRI AMAL DATTA : As long as the Central Government does not claim the financial powers, I will be only too happy.

Therefore, this is a very valid point and it should be taken note of that surreptitiously, by a defective method, the Central Government is trying to encroach upon, and they will definitely encroach upon, the law and order field which is the jurisdiction of the State Government. When I raised it at the time the hon. Minister was making his introductory remarks while introducing the Bill, he immediately referred to Tripura. Indicating me he said, 'hon. friend's party ruling in Tripura'. And there the Chief Minister is always shouting to the Government that they must be given more powers. In this House we tried to raise this topic. Number of times we have given it in different ways—under 193, by way of calling Attention, by way of Adjournment Motion, but it has never been admitted. The matter of fact is that Tripura is a border State. Three-fourth of it, about 700 kilometres border, it has got with Bangladesh. The people come from across the border and make depreciation, loot, murder and all these kinds of things, and the Central Government, whose duty it is to protect the border, is not carrying out its duty. That is what the Chief Minister of Tripura has been shouting about and that is the topic we have been trying to raise in this House, but we never succeeded. So, the Central Government is not doing its duty. When we say that they are not doing their duty, they say it is a law and order problem. What law and order problem? There is no internal problem, the problem is totally external. Central Government is failing in its duty. They always

point to that as if that is a law and order problem. This is the way the Central Government create problems. If people in a remote part of the country like Tripura or Manipur or Mizoram, have a grievance, that grievance is allowed to accumulate and gradually built up. Then they will also go to show that they have already gone on the way of terrorism. The Bill that has been brought today, says that 'it tries to alienate a section of public'. In the IPC also similar sections are there. There the words used are 'community, religion, caste'. If one tries to create hatred or alienation against one caste or religion or people using one language, then they are punishable under the IPC. But here they have brought in a phrase or expression 'a section of the public'. What does 'a section of the public' mean? Say, if there is a labour movement, if there is a movement for wage rise, or there is a trouble between two trade unions—some of the trade unions are supporters of the ruling party or they have their affiliation to the ruling party—so, in that case they will say these people are alienating one section of the public or are causing disaffection against one section of the public and, therefore, they are brought under this Act.

The definition of 'disruption' that they have given is something unique and I think we have been advocating State strifes against Centre for a long time. If we speak outside the House, we will be immediately caught under this Act. The disruption here is defined as 'an act which is intended to bring about indirectly, or supports any claim indirectly, for secession of any part of India from the Union'. Now, if we say that West Bengal is being discriminated against, which we often say in this House and outside this House also, somebody may come up with this idea that 'you are indirectly making or inciting the people to make a claim to go out of India because you are saying that the Central Government is discriminating against the State Government.

13.06 hrs.

[SHRI N. VENKATA RATNAM  
in the Chair]

Now, where is the safeguard? There should be safeguard. The Indian Penal Code which creates such offences gives safeguards.

[Shri Amal Datta]

But in this Act there is no such safeguard given. When the Minister said that he assures that it will not be misused for political purposes, all that we want is, let that be incorporated in this Act itself stating that this will not be misused for suppressing any political movement for such objects. If that is given, then we can be sure and we can also support the Government in the other parts of the Bill except, of course, that part which takes away the States' rights.

There is a similar Section, Section 124(a) of the Indian Penal Code where it says :

"Whoever by words either spoken or written or by signs etc. etc. brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government established by law in India shall be punished with imprisonment for life" etc.

There they say in the explanation :

"Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection does not constitute an offence under this Section."

Why was it thought necessary to put this Explanation to Section 124(a) of the Indian Penal Code ? Because, the words used "otherwise..." would, without these safeguards, bring in all kinds of criticism of the Government under the scope of Section 124(a). The very similar words to Section 124(a) are being used here to define 'terrorism' and define 'disruption' but without that safeguard. So, people who drafted this Section of Indian Penal Code knew that to give this democratic movement some leeway in this country it is necessary to put in this safeguard and that safeguard is now being taken away. Sir, this is a very serious matter and the Government should not take our comments lightly.

PROF. MADHU DANDAVATE : Is there any Lunch Hour, Sir ?

MR. CHAIRMAN : I am told that there is no Lunch today. Has it not been decided in the House ?

(Interruptions)

PROF. MADHU DANDAVATE : We are going to have our lunch.

AN HON. MEMBER : We are going to have lunch, but there is no Lunch break.

(Interruptions)

SHRI A. K. SEN : We will be able to tackle the terrorists better if we go without lunch.

(Interruptions)

PROF. MADHU DANDAVATE : Sir, a hungry man will create more terrorism.

MR. CHAIRMAN : There is lunch, but there is no Lunch Break.

SHRI AMAL DATTA : Sir, the Government has been arming itself with a lot of extraordinary powers for a long time. We have mentioned the Terrorist Affected Areas (Special Courts) Act passed in 1984. Then in 1984 they also amended the National Security Act which was a second amendment by which the period of detention was extended from one year to two years, and for one year a person can be kept under detention without his being brought before the Advisory Committee. Only after one year has elapsed, for the second year he has to be brought before the Advisory Committee. So, one year detention without trial is now possible under the National Security Act.

The Arms Act has been repeatedly amended in 1981, 1983 and recently in 1985—in this very Session. We have the Punjab (Disturbed Areas) Act, then we have the Disturbed Areas (Special Courts) Act, 1976, which has been amended in 1983 or 1984. There are so many Acts that the Government has got. They will now lose track of how many Acts are there to tackle with terrorism. That is one of the reasons why we wanted the Home Minister to speak. He would have been able to say that having so many sticks in his hands, what he will be able to achieve. Whether he will be able to wield any of the sticks to have a desired effect ? When the Special Courts Bill was introduced in this House one of the objects which was given in the Statement of Objects and Reasons was to ensure that there is a speedy trial. I understand that one thousand persons have been arrested under this Act.

Some of them have been arrested and are being kept in detention for one year. These persons are still under trial. Their trials have not yet started. And what has happened under this Act is that only ten courts have been constituted and they have been given three-fourths of the cases which have arisen in Punjab and only one-fourth are being dealt by the ordinary Sessions Courts. These courts have not yet started functioning. Already they are crowded with too much cases and one year has passed and the trials have yet to start. When they start, it will take years and years to dispose of these cases. This is a very serious state of affairs.

The Home Minister is not here and I do not think any competent Minister is taking any note.

I do not know what is the purpose of our speaking here at all.

SHRI LALIT MAKEN : The Minister of State for Home Affairs is there.

SHRI AMAL DATTA : When these courts are constituted, exactly the same thing is bound to happen. The Government has not taken care to see that under the Terrorist Affected Areas Special Courts Act there are enough courts to ensure speedy justice and what they have done instead is similar to this Act. They have provided in the Act that trial can take place in any other place than the ordinary courts. So, the trials are now going to start under the previous act in Jail because it must be a protected place. So, since the trial will take place in jail, the identity of the witness will not be disclosed. So, what is the sort of trial that these people are going to have? If you cannot ensure a fair trial, then it is much better—although I am not supporter of preventive detention—to put them under preventive detention for one or two years, because in any case you are not going to conduct a fair or speedy trial. Speedy, because, I can show you that one year has elapsed and you have not started trial and they are all under trial and they are in detention. It is not fair and proper because the trials will be held in a protected place and the identity of the counsel and that of the witnesses is not going to be disclosed. So, any method can be adopted, so that identity of the witness is not disclosed. He may be wearing a mask or

something so that his face cannot be identified later. So, is it not a mockery of trial? Are we not making our whole judicial system farcical by this move? Since you cannot bring to him justice and you cannot aduce evidence in a court of law, it is better to revert to whatever you were doing before like putting people in preventive detention rather than ridiculing the whole system of justice and destroying it. That is what you are bent upon doing.

We all support the Government when they say they will root out terrorism. But are they really serious in their efforts? They have managed all kinds of Acts and whatever powers they wanted has been given to them by the Parliament. Today we are opposing them because they are not using those powers properly. They are using them against innocent and wrong persons. They are not able to arrest right persons because it is small group of extremists. Not only we say that, but you also say that there is a small group of people who are behind this. But you are not able to apprehend or identify them whether they are in India or outside India, where they are operating from, where from they are coming or going.

The hon. Minister has introduced the Bill. He himself said :

“We do not know where they are.”  
(Interruptions)

MR. CHAIRMAN : All interruptions not to go on record.

(Interruptions)\*

MR. CHAIRMAN : Nothing goes on record. Please sit down.

SHRI AMAL DATTA : Let me continue. In this Act as in the Terrorist Affected Areas Act, the appeal is sought to be made straight from this Court, the Designated Court, to the Supreme Court. I have to object to this on principle because we know that in the Supreme Court it is not possible to have speedy trial of the cases. What is the objection to providing for an appeal to the High Court of the State concerned? After all, the Designated Courts will be functioning in the State. Why should not that appeal go to the High Court? Why should it have to go to the Supreme Court

[Shri Amal Datta]

direct? If these cases go to the Supreme Court first of all there is a chance that they are not given any kind of priority. The Supreme Court will not be able to discharge its function because it is already very much burdened.

That is one of the reasons why this particular clause should be amended and appeal should be provided to High Court and not merely to Supreme Court.

Last but not least, when a situation somewhat similar to what is prevailing today occurred in India during the British regime in 1918-19, at that time the British Government came up with an Act which was called the Anarchical and Revolutionary Crimes Act, 1919. By that they also provided that separate courts be set up to try special kind of offences in areas which were notified to that effect by the then Government General and all that kind of thing. The whole India, led by Mahatma Gandhi, protested against that Act. That Act was known as the Rowlatt Act and we named it as a Black Act. That Act had provided that the Benches trying such offences, the scheduled offences as they called them, would constitute a Bench of three High Court judges, if three sitting High Court judges were not available, then two sitting High Court judges and one retired High Court judge. But today, under this Bill, we are giving much more powers to a Sessions judge. Whereas under that Black Act the High Court judges could take cognizance of a case on an application made by the Advocate-General of that State, here, under the Bill, the Designated Court will take cognizance and try a case on an application made by the Public Prosecutor. We have descended to this level! In the British times, Mahatma Gandhi led an agitation against the Rowlatt Act, which we called the 'Black Act' because the ordinary principles of justice were deviated from. Under that Act, the High Court judges were given powers in respect of certain offences enumerated in the Schedule and particularly offences against the State. But here in respect of not only offences against the State but also many other offences mentioned here, powers are being given to a Sessions judge who will take cognizance on a police report or on an application made by the Special Public Prosecutor. We have descended to this level! And what is the value of Constitutional guarantee given?

Article 21 requires that the State cannot enact any law which will take away the ordinary procedure of administering justice, which will take away the procedure established by law. In the Janata period there was a Special Courts Bill proposed, and that Bill was sent to the Supreme Court for their opinion. The Supreme Court turned it down on the ground that such a measure was obnoxious. I think, that was the judgment of Justice Singhal. Nomination of judge by the Central Government was held to be obnoxious by Justice Singhal because the prosecutor was nominating the judge. And this Bill was not enacted...

AN HON. MEMBER : It was a dissenting judgement.

SHRI P. CHIDAMBARAM (Sivaganga): The majority upheld the validity of that, but gave some guidelines. I think, my learned friend is not reading from the majority judgment.

SHRI AMAL DATTA : While interpreting article 21, the Supreme Court has said a number of times that mere prescription of some kind of procedure cannot ever meet the mandate of article 21; the procedure prescribed by law has to be fair, just and reasonable and not fanciful, oppressive or arbitrary. This is what the Supreme Court has said in what has come to be known as the Maneka Gandhi case. Another pronouncement of Justice Bhagwati in the same cases is to this effect :

"Is the prescription of some sort of a procedure enough? Or must the procedure comply with any particular requirement? Obviously procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who in his usual candour frankly stated that it was not possible for him to contend that any procedure, howsoever arbitrary, oppressive or unjust, may be prescribed by the law."

That means that Art 21 which requires that the procedure must be fair and just and not arbitrary or oppressive, the protection of that Article is being taken away if this law is enacted. We should take care to see that the procedure which is prescribed here is not an oppressive procedure because the trial can take place in the jail and the person cannot

get any counsel. The witnesses may not have to disclose their identity. They may be even under a mask so that people may not know as to who are the people who are giving evidence against them. They cannot be allowed to be cross-examined on certain points because the Evidence Act has been abrogated at certain places. Art 21 prescribes that such a law should not be enacted and since there is a great possibility that it impinges upon that protection, it should have been sent for opinion of the Supreme Court before being enacted. Otherwise, the Government should have brought it before this House as they have done it before in the case of the Terrorist Affected Areas Special Courts Act and the amendment of the National Security Act which they brought in July 1984. What they did was to promulgate the ordinance while the Parliament was in recess. Of course, we objected because they promulgated the ordinance only 2 days before the Parliament was to meet. Now in the inter-session period they could have brought it and they could have sought the opinion of the Supreme Court and then brought it before the House with the opinion of the Supreme Court annexed to it. That procedure the Government has to follow. They do not want to follow this kind of procedure because whatever arbitrary power they can assume, they are assuming in the hope and intention that they could use it in the future against their political opponents. I wish the government all success in tackling the terrorists. But I can tell them that by enacting this law, they will not advance a single inch in tackling the terrorists. Whatever powers they have got in their armoury are quite sufficient. If they have not succeeded with that, they will not succeed with this also. These are my comments.

**SHRI S. B. SIDNAL (Belgaum)** : I rise to support this Bill. I congratulate the Government for having brought this Bill in time because the terrorists have been successfully operating and disturbing the whole society and the country.

Ours is the country of saints like Mahatma Gandhi and Buddha and others and the situation is such where every traveller in a train and every passenger in a plane and people in the shop are feeling that they are not safe because of these terrorist activities.

Mr. Amal Datta asked : can you root out such things by such law ? I would submit that no law can root out crimes totally. It can be reduced to a greater extent. Law is preventive rather than curative. I would like to say that the punishment to be awarded is fully justified but the abettor should be awarded more punishment than it is prescribed in the Bill because they are the main people to create such an atmosphere in the society. When we go through the newspapers we find that mostly youngsters who are below 25 years are being brain-washed and mis-guided by such abettors. Although there is provisions in the IPC and CrPC for punishment being awarded to the abettor yet it did not have the desired effect. Therefore, I propose that more punishment should be awarded to these abettors.

Sir, a criminal who commits a murder and claims only one or two enemies is awarded capital punishment. These terrorists who commit murders in multiplication should, therefore, be awarded heavier punishment and, as such, the provisions enumerated in the Bill are quite justified. Innocent citizens and children are their victims. Therefore, heavy punishment should also be awarded to the abettors. Then, Sir, laws are there but implementation of those laws should be more effective.

Sir, the main idea to bring forward such legislation is to reduce crime and create a just society. Terrorists have created chaotic conditions in this country. If they are let loose panic will be created in the mind of every citizen and this will lead to further chaotic conditions. Therefore, in my opinion this Bill is justified and such crimes which are committed purposefully should be dealt with scientifically.

Now, a days the trial is there. The courts are designated. There the evidence may not come properly because of fear element. In my opinion in such a situation we have to go about more scientifically because otherwise the evidence will not be there. In the Bill itself it has been stated that scientific means are employed for destruction. So, in proportion the investigation has to be more scientific to meet this new challenge. At present the investigation methods are out-dated and many criminals have been let out because of want of evidence. There is a dictum in Evidence Act

[Shri S. B. Sibal]

that let nine criminals pass away from the clutches of law but not a single innocent should be punished. Sir, if we do not have proper scientific investigation all the ten will pass away from the clutches of law. Therefore, investigation has to be more scientific otherwise again some innocent persons will become victims and the real culprit will escape from the clutches of law. I would like to say that there is sufficient clarity about the designed courts and the ambition of the legislation will be fulfilled to control such terrorist activists and disruptive activities.

Thirdly, Sir, a word about the protection of the witnesses. Protection of the witnesses has to be very much taken care of. We have seen and it is our experience that even in ordinary courts in a murder or any other case a man who comes and gives evidence in the court of law is harassed and in many a case he has been murdered. Their real evidence will not come forth out of fear. We cannot punish real culprits. Therefore, the protection for the witnesses is not sufficient even if it is only in camera. The general protection by law and by society should be there. Otherwise it is not possible to execute any law effectively and to reduce or to root out criminals effectively. So, protection should be given to the witnesses. The necessary atmosphere should be created in this regard. The trial should be very speedy. Despite the courts having jurisdiction, the procedure should not be delayed. It should be very speedy; it should be preventive. Punishment should be so prevented that future criminals should not be there.

Lastly, I wish to say that the objects of the Bill are very nice. It will create a just society in this country. Cognisance can be taken by the concerned authorities of the provisions of the Bill. It is said that terrorist and disruptive activities will be eradicated in a short time. But what I doubt is this. No law should be temporary in nature. We cannot anticipate that criminals will completely stop their activities at a particular point or time. So, whatever is spelt out as '2 years' or so, should be prolonged for a longer time. Otherwise legislation will lose its importance. Therefore, it should not be limited to some periods. We don't know when such things will again happen. We have been seeing all these things for all these years. Communal activities have always been happening in this

country. We can declare any area, for that matter, under the Act, as a disturbed area if we continue this law. Now, Section 3 says, 'Whoever with an intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people.' That means, it will be permanent in nature. That section will apply to any places in future, whichever is declared as a disturbed area. Any place may be subject to attack by any bomb or any scientific method which may also arise in future. Therefore, the time should not be limited. 2 years is a very limited time and it is inadequate. So, the time should be extended till such time that we can completely stop terrorist and disruptive activities.

With these words I support the Bill. Thank you.

SHRI CHIRANJI LAL SHARMA (Karnal) : Mr. Chairman, Sir, at the very outset, I must congratulate the hon. Prime Minister and his Government for having brought this legislation against terrorist activities.

Sir, it was being remarked by one of the Members from the Treasury Benches—I don't want to name him—that it is very much belated. 'Better late than never' is wisely said. The Government has its finger on the pulse of the nation and so they have brought this legislation.

I have listened with rapt attention to the speech of the hon. Member of the Opposition from West Bengal. It looked as if he was arguing a case in a court of law forgetting that he is a Member of Parliament representing the people and not his clients. An advocate has to appear in a court of law to defend an accused person in his capacity as such. But, as a parliamentarian, he is in a different capacity. I was simply pained to hear certain observations from him as if he had the reasons to smell a grain of salt in the *bona fides* of the Government completely forgetting that there is a calculated, regular systematic and methodical move by these huge monsters to create disturbances in the calm sea of the nation and in the face of these tragedies that are being enacted by these terrorists all over the nation, we have long held our peace. But now a growing sense of responsibility towards the people and the

situation that has been created have obliged the Central Government to bring forward this legislation.

I was just regarding the Statement of Objects and Reasons of the Bill and an observation was being made by one of the Members who spoke from the Treasury benches and also an hon. Member from the Opposition that this is a legislation against one particular community, this is alienating the Sikhs, well I am sorry to say that it is a misinterpretation and completely a wrong interpretation of the statute. I do not know if the very mention of the words 'Punjab' and 'Chandigarh' means that it would refer to a particular community.

I would like to quote the relevant portion of the Statement of Objects and Reasons :

"Terrorists had been indulging in wanton killings, arson, looting of properties and other heinous crimes mostly in Punjab and Chandigarh. Since the 10th May, 1985, the terrorists have expanded their activities to other parts of the country, that is, Delhi, Haryana, Uttar Pradesh and Rajasthan as a result of which several innocent lives have been lost and many suffered serious injuries."

I fail to understand the psychology behind this argument which was advanced by my friend that this is alienating a particular community. This is a wrong interpretation. This is not at all meant against Sikhs, Muslims, Hindus or Christians. Any person who tries to take the lynch of laws in his own hands has to be dealt with. Mr. Chairman, there was no legislation, no enactment, no law against terrorism as such. Terrorism has not been defined in Indian Penal Code. It is for the first time after attainment of independence for the last 38 years that this legislation is being brought forward and that too because of the situation that has been created now.

Sir, my learned friend was referring to the provisions of Section 124-A of the Indian Penal Code. May I have the temerity Mr. Chairman, to ask the hon. Member through you whether there is any provision in the Act against terrorism or terrorists as such, whether the word 'terrorist' or 'terror' has been defined in that Act? Absolutely not. Therefore, the Government in their wisdom considered the admissibility and the desirability

of bringing forward this legislation and we must congratulate the Government for this. Sir, in the very first Section of the Bill, it has been mentioned as :

- "(2) It extends to the whole of India, and it applies also :
- (a) to citizens of India outside India;
  - (b) to persons in the service of the Government wherever they may be; and
  - (c) to person on ships and aircraft registered in India, wherever they may be :"

Sir, my friend was arguing that this Bill is being hurried through. It is not so. I can say with confidence, may, with a sense of responsibility that the Bill as drafted is quite comprehensive. It is exhaustive in nature; even this Bill covers those Indians who are living abroad. Recently, you must have read in the press that plans were going on against our beloved Prime Minister in the foreign countries.

MR. CHAIRMAN : Please conclude now. There are so many speakers.

SHRI CHIRANJI LAL SHARMA : This bell always disturbs me whenever I am on my legs. I must get this bell after five minutes, that is my misfortune.

Only the other day we read in the newspapers. It was on the 12th of March this year that some terrorists living abroad were removing dis-assembled guns from British Columbia and Vancouver/two districts of Canada, which have become training camps for the terrorists. It was being taken in parts. Five days after, other parts of that gun were being taken from one place to another. There were being taken to London. At Heathrow, they were caught and deported back to Canada. This is how conspiracies are hatched in countries abroad. These were being taken from London to Paris for the execution of 'mission', and I must congratulate the American Government that they have taken steps at the appropriate moment. What was implicit became explicit. The cat was out of the bag. They were successful in laying their hands on these terrorists, who had mischievous designs against our Prime Minister. Our Chief Minister from Haryana,

[Shri Chiranji Lal Sharma]

Sri Bhajan Lal, had gone for his eye operation to New Orleans. He was in the hospital. After his eye had been operated upon, he shifted to the hotel. You must have read in the newspapers that terrorists, not one, but five or six, were hiding themselves in the round about of the hotel, and one of them had even reached the dining room of the hotel. Luckily, on that day, Shri Bhajan Lal decided to take his meals in his room itself. Thus, such sorts of activities are being hatched by the terrorists, by persons hailing from India, but living abroad. Clause 1 of this Bill is, therefore, very properly worded.

Objections were raised by my friends to Clause 13 in which there is a provision for the security and protection of the prosecution witnesses. Facts are facts, they must be squarely faced. Nobody makes bold to appear as a witness in the open court against such hardened criminals, whether they are terrorists, Anand Margis or extremists, or you can coin any word for them. Everybody considers his life to be precious and I must congratulate the Law Minister for having made this provision for the protection or security of the prosecution witnesses, otherwise nobody would come forward to depose against those persons.

Again, there is a provision for holding of the proceedings in camera. Unless such provisions are made in the law, what is desired cannot be implemented. Then, again certain objections were also raised on various topics. I do not want to go into all these matters in detail. Otherwise, I wish I could reply to my hon. friend on the other side, point by point. The time at my disposal is very short. Sir, I would like to submit that there should be active public cooperation against these terrorists. I do not know why there is this provision of two years. There should be long term measures. Let us give it a permanent character, so that the terrorists or those persons who are eating into the very vitals of the nation know that there is a law against them and that they cannot escape punishment. I would respectfully submit to the hon. Law Minister that there should be an amendment and there should be a long term provision to face terrorism.

Terrorists are highly egoistic individuals and this egoism can go only with a rod and not with folded hands. Suppose a theft is committed in the house and the individual

concerned goes to the police station to lodge a report. The report is taken down and the SI, when he gets the accused, offers him a chair, a plate of *rasogollas* and a cup of tea. Will he be able to recover the theft, or the dacoity of the robbery? No. He has to take measures for the recovery of the theft, of the stolen property.

If you go to America, Italy, West Germany or England, you will find terrorism. But in India, we did not have this sort of terrorism which we are seeing now, just during the last year or so. So far, there was a problem in the Punjab. A dispute arose due to some clash of interests between the two States. There was some sort of a dispute regarding some demands, between Punjab and Haryana. But what is the sense in spreading this terrorism in the whole of the northern region in our country? Sir, I can name the countries who are the brain behind this. The bombs and other weapons that have been found in possession of the terrorists would lead us to the irrefutable conclusion that foreign powers are playing there. Then Sir, you find police uniforms and army uniforms among them. How to distinguish whether he is an army person, or a police employee, or a terrorist, or a hardened criminal in the garb of a policeman? It is very difficult for a layman. If you go for a walk, or if you go to the park or to the cinema house or to the bus-stand or the railway station, you feel that you are very insecure. Even the members of your family feel that there is no hope or no certainly that a man who goes out, will return home safely.

Prof. Dandavateji was assuring the hon. Law Minister the other day when he introduced the Bill that the Opposition would give cooperation to this legislation. They wanted this legislation to be passed in the manner in which the Anti-defection Bill was done. We do not doubt their sincerity. But the sort of arguments that were advanced were very much against the idea. I do not know whether they mean what they say. My submission is that this is a Bill about which no controversy should be raised. It is a Bill which needs no detailed discussion of the House and it should be passed unanimously. Well, you must give vent certainly to your views. This is the proper forum. But when it comes to voting, you must listen to what your conscience says. With these words, I support the Bill.

[Translation]

SHRI MOOL CHAND DAGA (Pali) : Mr. Chairman, Sir, on the evening of 10th May the people were listening on the one hand to the transistors as usual and on the other hand, these transistors were sounding a note of death. On 11th May, a horrible form of terrorism was witnessed. We had thought that this problem was nearing solution with the efforts of Government, but the broadmindedness of Government was taken as their weakness. Government released the determines and held conciliatory talks. The ban on the Students Federation was lifted. But they took it as the weakness of Government. They did not know that this is the land of Gandhi, of Buddha. Terrorism cannot take roots on this land. Seeds of terrorism cannot be sown here. Those sowing the seeds of violence and terrorism did not realize that these things cannot thrive in this country's environment.

It appears they had pre-planned it. The blasts took place not only at one station, but at 20 railway stations simultaneously. They had hatched a conspiracy to kill the innocent people. Will Khalistan come into being by killing innocent people ?

Therefore, the Bill which has come before us today is a very comprehensive Bill. All the necessary provisions have been made in it. I want to ask one thing of you namely why you have brought this Bill only for two years. What are the reasons behind it ? If you do not like terrorism in the country, it should have been brought for a longer period. We fought our war of independence through non-violence Mahatma Gandhi laid down his life for it and Shrimati Indira Gandhi sacrificed herself for preserving it. When you want to root out terrorism from this country, why have you brought this Bill only for two years ? I do not understand why have you excluded Jammu and Kashmir from its purview. You should have come out with the reasons justifying its exclusion.

Without going into all the incidents, I want to say one thing. How were the people spreading terrorism born on the land on which we fought our war of independence against the British Government through non-violence and truth ? We do not believe in terrorism. The hon. Member from that side, Shri Madhav Reddi, had said in the beginning that he supported the Bill but

added its and buts later on. I appeal to you to exclude these words. These words do not sound good. When you have supported this Bill heartily, these words do not sound good.

PROF. MADHU DANDAVATE (Rajapur) : At the time of Anti-Defection Bill, we had said that we supported that Bill, but we moved an amendment to that Bill. That Bill had the support of the entire treasury benches, but the amendment moved by us was accepted by the Prime Minister. Does the moving of any amendment to a Bill mean opposing it ? We want to move an amendment which can make this Bill stronger. Do not take away our right to more amendments.

SHRI MOOL CHAND DAGA : Professor Sahib, I appreciate your wisdom and the way you have put forth a point so nicely. But, whatever you are saying now on this subject points to something else. You have said it rightly, Mr. Dandavate, and I appreciate it.

14.00 hrs.

I would also have been benefited had I learnt your style of speaking but I did not want that. The question is that terrorism should be rooted out. I want to say, Sir, that the seeds of terrorism cannot be sown here. Whenever you took a liberal posture, the people thought that you were helping terrorism. Just now, an argument was advanced from that side that the name was not mentioned in the court. You know that 60 per cent cases in India are lost because the witnesses do not come forward. What is the condition of terrorism today ? Certain things have been recovered from the house of a famous advocate. The Members from Delhi have to hang their heads. Keeping all such incidents in view, this Bill has been brought forward at a very opportune time.

14.01 hrs.

[MR. SPEAKER in the Chair]

One thing I want to say.

[English]

You say all that the rules and orders etc. according to the rules laid down regarding subordinate legislation should be laid on

[Shri Mool Chand Daga]

the Table of the House whereas you say in your delegated legislation that rules will be laid on the Table of the House. But you have given power to the officers to pass orders and those orders should also be laid on the Table of the House. But that has not been mentioned in the rules.

[Translation]

I would like to say that you have brought this Bill in a hurry. Suppose, a technical offence has been committed and you want the offender to be sentenced for five years, but, if after taking all the statements and becoming fully satisfied, a magistrate reaches a conclusion that the accused has no intention to commit that offence and that he had done so unintentionally, then what would happen? Your law says that he should be sentenced for five years. Mr. Ashok Sen, had you been in the court, you too would have taken shelter behind the principle of equity. So, you have said—

[English]

He will get a punishment of minimum of five years.

[Translation]

I have given an amendment to the clause which provides for five years punishment. The reason is that in case of any offence the magistrate could reduce the punishment at his discretion.

SHRI VIRDHI CHANDER JAIN : What is a technical offence ?

SHRI MOOL CHAND DAGA : It can happen this way. Supposing, a person had no intention to indulge in terrorist or sabotage activities, but while passing through the place of occurrence, the cameraman took his photograph, which was made public.

[English]

That person was not a party to it.

[Translation]

But the witnesses say that he was there. On the other hand, the Magistrate feels that he was an innocent person and that he had not committed any crime.

[English]

SHRI VIRDHI CHANDER JAIN : He can be acquitted.

[Translation]

SHRI MOOL CHAND DAGA : Sometimes such technical offences take place. It has been said that he should be sentenced for five years. If an old person of 75 years is also sentenced for five years, what purpose will it serve? You should see this also.

[English]

Leave it to the discretion of the Magistrate :

SHRI JAGDISH AWASTHI : Exceptions are not to be quoted.

[Translation]

SHRI MOOL CHAND DAGA : I have said what I wanted to say. It is your discretion now. It is you who have to take the decision. You have said that :

[English]

He gets released on bail. He gets released on bail! On what ground? You say :

“That he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

Both these things should be reconsidered. I say that you consider this aspect. Not that both the things should be there. I have given my view. When I move my amendments I will mention them. If your honour accepts, you can agree, otherwise, leave them.

[Translation]

Mr. Speaker, Sir, I have said certain things before you arrived here. You must have heard them.

MR. SPEAKER : I am listening to everything that you are saying.

SHRI MOOL CHAND DAGA : I have said that India is Gandhi's land. Seeds of terrorism cannot be sown here. Prof. Madhu Dandavate and many other hon. Members

have also said that they do not like terrorism. So, this Bill should be passed unanimously. They must give whatever suggestions they like to give, this Bill should be passed unanimously. It should appear in the press also that the Terrorist and Disruptive Activities (Prevention) Bill has been passed unanimously, because this is the land of Gandhiji and Lord Buddha.

[English]

PROF. MADHU DANDAVATE (Rajapur) : Mr. Speaker, Sir, at the very outset let me make it very clear without any doubt, and unequivocally let it be clear, that I am totally—my party is totally—opposed to terrorism in any form and from any quarter.

Sir, I say it not only from the ethical point of view of violence and non-violence. Throughout the world terrorism has never been an instrument of political and social change. Even those who have believed in violence as an instrument change and revolution had distinguished between terrorism and the violent revolution. Terrorism is not an instrument of violent revolution also. It is only an instrument to terrorise individuals. and creating a climate of fear and through such a climate of fear a social change, a political change and a revolution can never take place.

As far as I am concerned, we go a step further. We are committed to the Gandhian methodology of change in this country; not merely the method of the ballot box but even extra-parliamentary peaceful and non-violent forms of struggle. And, Gandhiji did not organise the 'No tax campaign' in vain. The lesson of Bardoli will never be lost. The lesson of Dandi March will never be lost. The lesson of peaceful general strikes will never be lost. These are no doubt non-parliamentary but peaceful forms of struggle and those who believe in Gandhian method of change, they have accepted even the extra-parliamentary methods, non-violent methods, peaceful methods and we are committed to them. And because of our commitment, irrevocable commitment to a concept of non-violent and peaceful form of struggle and also non-parliamentary methods, we totally reject the instrument of terrorism no matter to whichever party we belong, left or right or

centrist; or any one party or communal party or whichever it is undertakes this particular path of terrorism we are totally opposed to them. And, therefore, let me make this ideological opposition about terrorism explicitly clear.

Having cleared that, I must also say that there are a number of existing laws and those laws can be effectively utilised to deal with terrorism. But here, I would like the judgment to be left to those who are running the Government. Those who are sitting in the Opposition will not know, whether a particular law is effective in dealing with terrorism. It is only one who wields the weapon understands the strength of that weapon or the weakness of the weapon. But those who are conducting the administration of the country, they should be able to tell us where the existing laws failed, they have proved inadequate, whether they have fully used them. If they have come to the conclusion—I do not challenge their motive—that the existing laws are not adequate to deal with the forces of terrorism, in that case they are free to bring forward a legislation which might be able to serve the purpose. But we must see that when we give certain powers through this legislation which will become an Act, afterwards do not tell us that even this Act is inadequate. I gave the figures last time. I checked up the record of Lok Sabha. I checked up the replay given by the former Home Minister, Shri P. C. Sethi. I want to confirm that I said that by the end of February, 1984 220 innocent people were killed by the extremists in Punjab and not a single person was prosecuted. Last time, Shri S. B. Chavan also gave some figures but he added the figures of 1985 and made it appear as if some people were prosecuted.

MR. SPEAKER : I think, by this you are provoking the Law Minister and the Home Minister to act.

PROF. MADHU DANDAVATE : Exactly Sir. What I would like to suggest to him is that be in the habit of acting and not merely reacting, Unfortunately, the present Government often merely reacts; it never acts. In that sense, it is reactionary. Therefore, I want them to act and in time. A number of preventive actions taken in time will save the situation. I deliberately brought to your attention this episode. There

[Prof. Madhu Dandavate]

are many weapons in their armoury even in the existing laws. Even then they were not able to prosecute even one person in connection with the 220 murders by the end of February, 1984. If it could happen in the case of existing laws, I am afraid that the same may happen even when we give them more powers. Even when the new legislation becomes an Act, if this is going to be the outcome, then it will also become meaningless.

MR. SPEAKER : I think he will reply to this very point.

PROF. MADHU DANDAVATE : In fact, he has already prepared his reply before hand, because he is a good friend of ours and so he anticipates our doubts and suspicions.

I would like to point out one more thing and that is regarding the Opposition's approach to this Bill. My good friend, Mr. Daga, just now has said that Shri Madhav Reddi began with the observation that the Opposition would support this Bill but 18(c) was such a clause which would take away certain powers of the State and that this should not be done. Then he reacted and said if you extend the support, do not have its and buts. The beauty of democracy is that people sitting on the Treasury Benches move the Bills. With all their competence, they leave certain lacunae. They themselves are not able to detect them. Those of us who sit on the Opposition benches, our duty is not to earn Rs. 70 per day, but our duty is to sit here as Members of the Opposition keeping a vigilant eye on the ruling party. And in the interest of the nation and the society if we discover any loopholes, in that case, we must point out to them and the responsive ruling party has to respond favourably to some of the constructive proposals and amendments that have been moved by the Opposition parties.

Take for instance, the aberration of defection in the country. I myself had introduced a Private Members' Bill in 1980 against defections. I was told that the time was not yet ripe. Fortunately, in 1984 the time became ripe. The anti-defection Bill did come up. The Prime Minister invited the Members of the Opposition and we discussed and debated. They put forward a certain draft. We said that "we are wholeheartedly supporting the idea of banning defections

in the country. If we do it on the day of Mahatma Gandhi's birth anniversary, that would be the best tribute to the memory of Mahatma Gandhi." We extended wholehearted support. But we extended wholehearted support and we proved that our support was not a blind one.

MR. SPEAKER : Blind support is always dangerous.

PROF. MADHU DANDAVATE : It is very dangerous, Sir. Whether it is blindness or colour-blindness, both are dangerous. Therefore, I would like to point out to you that when we discussed with the leaders of the House the draft Bill that was prepared, we pointed out to them to check and see. We pointed out to them that "Don't use the Constitution of India to discipline your Members inside your party, use the Congress Party's constitution, use Janata Party's constitution, use CPI(M)'s constitution. In order to discipline your Members, don't utilise actually the Constitution of India. Constitution is meant for a nobler cause." If, as a result of something that happens on the floor of the House, there are defections and sometimes the Government collapses, that type of an aberration is to be checked, and, therefore we said, "Remove that particular clause in your draft which relates to punishing the Members for their indiscipline outside the House." And, Sir, I am very happy when the democracy survives in a ruling party, it survives in the country. I was glad that my amendment which I had moved in the Opposition's meeting with the Prime Minister, was not acceptable but when the same was put in the General Body of the Congress (I), out of 18 members who spoke in the Congress (I) General Body meeting, 16 members held the view that was the correct type of an amendment and that should be accepted. The Prime Minister told us, "we are accepting it." We said that the amending Bill was unanimous and we passed the Bill with great unanimity.

MR. SPEAKER : Quite a good cooperation.

PROF. MADHU DANDAVATE : That is the way one has to react to serve to constructive amendments that are brought forward by the Opposition. Therefore, I shall request the hon. Law Minister that every amendment that comes from here, should not be an indication of our attitude

of tongue in the cheek. After all, we are here to strengthen the legislation. You have hurriedly brought the legislation. I know that you have experts with you, legal experts and luminaries. Our Law Minister himself is a legal is a luminary, but sometimes below the lamp also there is darkness and, therefore, people suffer out of that darkness, and then we have to point out that there is a dark spot, remove it. Some laymen like us, who are not legal luminaries, sometimes contribute more than the experts and the luminaries.

MR. SPEAKER : But some source of light does exist in the darkness, at the concern also.

PROF. MADHU DANDAVATE : Yes, that is all right. Therefore, I want to point out that certain changes are to be made, and, therefore, I do not want to speak again when I move the amendments. At that time if I go on speaking on every amendment, it will take a lot of time. Therefore, in my general observation, I will also cover some of the changes that I have suggested by way of an amendment. Firstly, it is said that this Bill is not going to be applicable to Jammu and Kashmir. I am conscious of the fact that there is article 370 and, therefore, you cannot touch the problems of Jammu and Kashmir. But, at the same time, there are the Seventh Schedule and the Third List, that is, the concurrent subjects. On the basis of that, we can make the changes. If the Jammu and Kashmir Assembly also accepts that—criminal law and the Concurrent List, and so many things are there on which we can take a decision—and if they also take an identical decision, in that case this law will be applicable to Jammu and Kashmir also. One Member, speaking as the first speaker from the other side, made it appear as if it is specially constructed for Punjab and Chandigarh. It is not so.

MR. SPEAKER : Not so.

PROF. MADHU DANDAVATE : It is not for the Sikhs also as he pointed out. Let him correct his point of view. In the whole text of the Bill there is no reference to either Punjab or Chandigarh.

AN HON. MEMBER : I hope, the Law Minister takes a note of it. When the prepare the Bill, they do it very carefully,

but when the Statement of Objects and Reasons is prepared they are less careful, because they take it for granted that nobody reads that Statement of Objects and Statements. And the person from the ruling Party who made that criticism also read probably only the Statement of Objects and Reasons and did not fully read the text of the Bill. Some do not read the aims and objects, they read only the Bill; some read only the aims and objects and do not read the Bill at all. I think he read only the Statement of Objects and Reasons. I think there was no need of making reference to a particular State. Here Prof. Swell is sitting and he will communicate to you. I do not know whether he is going to speak on this or not. In the North Eastern region also there are insurgents. Lot of trouble is there. In Punjab, in other parts of the country in Ahmedabad and wherever there are communal riots, in all parts of the country, geographically everywhere, we have got some flames of terrorism; and they are to be checked. So, we are not pinpointing any community, any region or any particular State. This is meant for wherever the ugly face of terrorism will rise, that ugly face will be destroyed with the help of measure that we are giving to the Government. That should be our attitude and with that attitude we are supporting this measure.

Prof. Sen is a very liberal Law Minister with a democratic temperament. We have known him for years. He has grown in Nehru traditions, in Gandhi's traditions—I am referring to Mahatma Gandhi. Do not misunderstand. Here he has been built up in those traditions. Therefore, even when he wants to take power, he does not want that power to be taken over a long period. And I am glad, therefore, in sub-clause (iii), Clause I, it has been stated :

“It shall come into force on such day as the Central Government may, by a notification in the Official Gazette, appoint; and shall remain in force for a period of two years from the date of its commencement.”

Some are unhappy about it. They say at least do take it during the tenure of our Office.

SOME HON. MEMBERS : No. No.

PROF. MADHU DANDAVATE : No. Have some sense of humour. You do have.

[Prof. Madhu Dandavate]

I know it very well. I have heard your speeches.

Therefore, some people said why only two years. I think it is very sensible on his part to restrict the limit for two years, because I have confidence that if there is a will to destroy terrorism, we will be able to destroy and wipe out terrorism in this country within two years and the third year we will not require the device of this Bill at all. Therefore, I am glad that he has put time limit of only two years.

There is another aspect to which I would like to make a reference over here. I have given another Amendment regarding some of the details. On page No. 3, Clause 4 and sub-clause (2) :

"For the purpose of sub-section (1), 'disruptive activity' means any action taken, whether by act or by speech or song or ballad or verse or words or by any book, pamphlet, paper, writing, record, tape video cassette, drawing, painting, representation or in any other manner whatsoever."

Everything has come. Only probably the wink of the eye has been left out. I think when you draft a Bill of this type—and I think the Minister will agree—it does not look good to bring in paintings, songs and cassettes and all that. On the contrary if you broadly say :

"...action taken, whether by act or by speech or through any other media whatsoever."

Why bring in poor poets and artistes and songs. They have got certain traditions. All those persons who have composed verses etc. have beautiful traditions. Why unnecessarily drag them into this. If you say "by all media whatsoever", I think this will serve the purpose. I think this is a small amendment that I am suggesting. But I have not the least doubt that he has certain sentiments behind it. I do not want to drag in poets and all those who have composed songs, and painters and artistes and all that. Therefore, that should be done.

Sir, there is another aspect to which I would like to make a reference and that is also equally important. Clause 4(3) on page 3 says :

"Without prejudice to the generality of the provisions of sub-section (2) it is hereby declared that any such action taken, whether by act or by speech or song or ballad..."

It is the consequential change, and I think the same change might be introduced here as it looks very awkward that they are bringing into the picture all these things.

Sir, I would like to take a few minutes more. I have some concrete suggestions.

On page 4, for clause 5(2) (h), I have suggested an amendment and that is my amendment No. 110. The original wording is :

"the control of movements within India of persons arriving in India from outside India;"

I would like to mention specifically about "arriving in India from outside". I would like to put it like this : "the control of movements of foreign nationals within India". I have specifically mentioned there, 'foreign nationals'. I think that will be improved.

PROF. N. G. RANGA : Supposing they happen to be Indians, not foreign nationals only.

PROF. MADHU DANDAVATE : You mean, of Indian origin ?

MR. SPEAKER : He is referring to people of Indian origin.

PROF. MADHU DANDAVATE : If your point of view and mine can be accommodated, it will be the best. If you accommodate Prof. Ranga and Dandavate, that is the best combination. I have no objection at all.

On page 5 there is something which is dangerous and it should be avoided. Clause 5(2)(p) says :

"prohibiting or regulating meetings, assemblies, fairs and processions;"

I think it should be completely omitted. As far as prohibiting, regulating meetings, assemblies fairs and processions are concerned, whatever normal powers you have got under the normal laws of the land are more than sufficient. I do not think any executive authority will tell you that the existing powers that they have, have failed and this

should be brought into the picture. I think that should be totally given up.

Then, there is of course a verbal change. I think it is only a question of good and bad English, I leave it to you, I do not want to improve the language. In fact, he knows Oxford English, I know only Bombay English.

SHRI A. K. SEN : English is the same.

PROF. MADHU DANDAVATE : There was one friend who was very much opposed to English, one follower of Ram Manohar Lohia. I told him, 'Let us have a compromise. If you are so much against English, you can write English in Devnagari script, that will be a good combination.' That is English and English after all.

On page 6 I would like this particular para, *i.e.*, clause 5(3)(g), to be completely omitted. It says :

"prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, congravening any of the rules or any order made thereunder;"

I do not think they have applied their mind very much to that. Unnecessarily why do you bring in husbands and wives and such others ? I think that can be dropped. I don't think that is necessary at all.

MR. SPEAKER : I think they are applicable only to the husband and wife who are in Parliament and who have been in Parliament.

PROF. MADHU DANDAVATE : The one who has drafted this, it is some wife who is against the husband and if a male has drafted it, it is some husband who is against the wife, either of them has drafted this, as a result of which unnecessarily the husbands and wives have been brought into the picture. That should be dropped.

SHRI BRAJAMOHAN MOHANTY : The wording is 'other than the husband or wife'—they are protected.

(Interruptions)

PROF. MADHU DANDAVATE : Sir, in one respect I would like actually to strengthen the draft further.

On page 9, sub-clause (2) of clause 12 says :

"Where an offence triable by a Designated Court is punishable with imprisonment for a term not exceeding three years or with fine or with both..."

I would like to say : "with fine up to Rs. 5000". It is a matter of detail. That you can work out.

We come to a very important aspect on which there was some discussion earlier. I think this is a political angle. On page 12 I would like the hon. Minister to accommodate the entire Opposition on this particular amendment. That is my amendment No. 115 that I have given. I will read the original clause 18 on page 12 :

"18(1) Any power exercisable by a State Government under this Act may be exercised by the Central Government with the same effect as if such power has been conferred directly on the Central Government and had been delegated by the Government to such State Government."

It is not only cumbersome but is politically irksome. I would like to reconstruct it like this. There is a certain political background behind this. Those of us who understand India's Constitution as a federal Constitution would like to have a strong Centre to be strengthened by strong States. We would like the federal autonomy and federal structure of the polity to be preserved. I would like to make this suggestion for substituting sub-clause (1) of clause 18 :

"18(1) Any power exercisable by the State Government under this Act may be exercisable by the Central Government with the concurrence of the State Government."

(Interruptions)

They talk about Dr. Ambedkar's federal Constitution. But there is so much in-built opposition to the federal character of the State and the federal character of the Constitution, the moment I suggested this, they showed their aversion and allergy.

SHRI DINESH SINGH : But India is not the federation of States but it is the Union of States.

PROF. MADHU DANDAVATE : Yes, it is Union of States and if you read very carefully our Constitution, Dr. Ambedkar and Pandit Jawahar Lal Nehru said : It is a beautiful blending of the federal and unitary characteristic. That is the beauty of the Indian Constitution. Though we have considered it to be Union of our States, at the same time, we have retained a number of federal characteristic features of the Constitution and I feel that this particular characteristic feature should be strengthened, in that case, this Bill should be in an amended form, particularly when the powers of the State are being tampered with. Most of the Parties sitting here are partly ruling Parties and partly Opposition Parties. None of the Parties here is 100% ruling Party.

MR. SPEAKER : He is referring to this clause under this law and not to any other law. The Centre will exercise its power only under this law.

PROF. MADHU DANDAVATE : I am talking of the provisions under this law only. The clauses are related only to this law. But even there I would like this particular amendment regarding concurrence to be accepted. I tell you, if we really show to the State that we respect your autonomy or respect your strength they themselves will come forward to strengthen your hands also. And, therefore, this sentiment of people coming from the State should be respected.

I am just now saying that all the Parties that are sitting here including the Congress-I are partly ruling Parties and partly Opposition Parties.

AN HON. MEMBER : They are part of us.

PROF. MADHU DANDAVATE : Yes, we are all part of India.

MR. SPEAKER : We are all part of each other.

PROF. MADHU DANDAVATE : Therefore, this aspect is extremely important and we would like to lay much stress on this. We would urge the Union Law Minister to give careful consideration to this suggestion on which the entire Opposition is united. Let anyone contradict me, if I am wrong. The entire Opposition stands for the federal character of the State. Therefore, this condition regarding "concurrence of the State"

should be there and if that is done, you really accommodate the viewpoints of various amendments which we have put forward. In that case, it would be possible to see that this particular Bill is adopted unanimously. But if we vote on any particular amendment, do not take it for granted that our will to fight terrorism is even an inch less than yours. After all, moving the amendment and pressing the amendment is not going to be an index whether you wholeheartedly support the Bill or not. It is the task of the Opposition to remove the lacunae and I hope and trust you will take note of the constructive proposals that have been put forward.

Let us unanimously accept this Bill with these amendments which we have proposed.

SHRI G. L. DOGRA (Udhampur) : Mr. Speaker, Sir, I am here to support this Bill. Many apprehensions have been expressed about certain provisions of the Bill. I think, they are not because of the reason that the provisions are defective but because of the apprehensions in the minds of the Members of the Opposition. I think, this Bill which has been presented to this House seems necessary and the provisions of the Bill are based on the experience of the working of the previous Acts. Which have been referred to by Mr. Amal Datta, hon. Member of this house.

The Government must have thought of this because all those Acts proved inadequate. That is why, the hon. Law Minister came up with long explanation of this Bill before the House to get the sanction of Parliament.

The hon. Minister explained in the morning to the House that Government has no intention of using this power for political purposes.

The only purpose of this Bill is to eradicate terrorism and we should all support it. We should not entertain any apprehensions in our minds.

14 36 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

There may have been some conflicts somewhere in the country but the hon. Minister said that the purpose of this Bill is not to intervene in that sector. The political problems will be solved by political working

and wherever there is clash of interests, those will be solved politically.

But as far as this Bill is concerned, it has only one purpose namely, eradication of terrorism and disruptive activities.

In this Bill, an exception has been made so for as Clause 1 sub-clause (2) is concerned. In has been provided that it will not apply to the State of Jammu and Kashmir, so for as terrorist activities and concerned.

I do not know why this provision has been made. So for as the Constitution is concerned, Prof. Madhu Dandavate said there is Article 370 and it seeks special position of J. and K. That is a different controversy.

Under Article 370, Constitution of India Application order to Jammu and Kashmir has been made and in that Order, we see that adequate powers have been given to the Centre to make similar laws under similar conditions.

If you look at Entries 1 and 5 of the Union List in VII schedule, you will find that they gives adequate powers to the Centre to make similar laws.

If we look at Part III of Schedule VII providing for concerned powers, we will find that entry, pertains to criminal law and it gives adequate powers to the Centre to make similar laws.

In view of the powers which have been delegated under the Head 'Residuary Powers' to the Centre by the State and those which were already with the Centre under Application Order, and the powers conferred on the Centre by Entries 1 and 5 and 79 of the Union List of the Seventh Schedule and Entry 1 of the Concurrent List pertaining to criminal law, we can see that adequate powers have been given to the Centre to make such laws. So, I do not know why this in exception has been made. We should not forget that the training camps for all those who created trouble in Punjab started in Jammu and Kashmir; actually most of the arms that came to Punjab came through J and K territory; most of the people who have been declared offenders and whom the Punjab Government were searching for took shelter in Jammu and Kashmir. It is only through Jammu and Kashmir that people have been passing to Pakistan for getting training.

It is said about Clause 18 of the Bill that the power

should not be taken over by the Centre. Here I would point out that at one time it was the then Chief Minister of Jammu and Kashmir who was himself acting in liaison or touch with Bhindranwale and other people who were the central forces of terrorism. Therefore, how do they say that this power could not be provided to the Centre. Normally this power is not likely to be exercised by the Centre. But contingencies may arise when the Centre may have to act. Actually Clause 18 of this Bill is based on the experience that the country has gained in the past.

The hon. Law Minister has said in the morning that we must eradicate terrorism from the soil of India. But, when we make an exception so far as terrorist activities in Jammu and Kashmir are concerned, do we not consider the soil of Jammu and Kashmir as the soil of India? We have to eradicate terrorism there also. Or, do you want to make Jammu and Kashmir an Ulster of India? Therefore, you must look into it and see that the Bill applies to Jammu and Kashmir also. Otherwise, what will be the political effect of this? Whatever the Opposition may say inside the House, outside it is said that the Centre does not act properly in respect of Jammu and Kashmir. People think that you are acting half-heartedly. That creates trouble for us, that creates difficulties for us. It becomes difficult for us to defend such half-hearted measures so far as Jammu and Kashmir is concerned. I do not know why the Government have done this. The Government of Jammu and Kashmir does not want any terrorist activities there. The people of Jammu and Kashmir are against terrorism. They are Indians, they stood by India all thorough. Even Dr. Farooq Abdullah in his speech, which was recently reported in the Hindustan Times, came down heavily against Jamait-e-Islami and Jamait-e-Tuleba; he has said that they are trying to break Kashmir from the rest of India; this is the charge he has levelled against them; and he has said that accession of Jammu and Kashmir to India is irrevocable. I do not know why the Central Government should feel hesitant in applying this measure to Jammu and Kashmir State also. There is the Constitutional power, there is the factual necessity, there is the legal necessity. Every thing warrants that this should be applied to Jammu and

[Shri G. L. Dogra]

Kashmir also. Most of the people who were or are acting in Punjab had gone from Jammu and Kashmir and are going through Jammu and Kashmir. Some of those hijackers also were from Punjab and they want to Srinagar through Jammu and some others were from Jammu and Kashmir, and they carried the plane to Lahore where they are being tried.

Therefore, I would like to stress that this Bill should apply to Jammu and Kashmir also. This Bill should be accepted by the House and we must see that all these mischiefs are nipped in the bud itself. Also I would say that a disruptive activity may not be a terrorist activity but every terrorist activity is a disruptive activity. I cannot understand the exception of J and K on this distinction. They say that so far as the Terrorists Activities Act is concerned, it will not apply to Jammu and Kashmir. What is a disruptive activity?

How do you describe the disruptive activity? You see clause 3. Use of bombs, use of explosives and any activity based on that and you terrorise the people, you kill the people, you hurt the people—this is the definition. In clause 3 itself the definition is given and it is covered by Entry 5 of the Union List Seventh Schedule. Therefore, my submission through you to the Law Minister and to the House is that this proviso be deleted—lines 13 and 14 on page 1, be deleted so that it applies to Jammu and Kashmir. I think it is a very useful measure. It is based on the experience we had during the last 3 years and it is based on the actual working of the things. Whether the trial will be in camera, whether the names of the witnesses will not be given, etc., Sir, in an extra-ordinary situation we have to make extra-ordinary laws. We have to make extra-ordinary procedures. So it should not be suspected by somebody. I do not know why they should have such apprehensions. We should have faith in each other. This is a very strange situation. But the situation in the country is developing in such a way that the Opposition and the Congress Party have to work together, and they have to enjoy each other's confidence. With these words I appeal to the House that we should pass this Bill and also I request the Law Minister to accept the amendment so far as its application to Jammu and Kashmir is concerned.

SHRI A. CHARLES (Trivandrum) : It is with a sense of sorrow and grief that I stand here to support the Bill before us. At the outset I may say that I am in full agreement with the contents of the Bill and the manner in which the Bill has been presented. But what pains me more is that a country which has always stood for peace and non-violence a country which has produced the greatest messengers of peace the world has ever seen, a country that was able to throw away the bondage of foreign rule through a struggle of non-violence and a country committed to secularism and committed to impart justice, liberty, equality and fraternity to all its people has had to face such a great challenge, questioning the very existence not to speak of the unity, solidarity and integrity of this country.

I belong to a minority community and I am proud to say that I belong to a country in which the hopes and aspirations of the minorities and the weaker section are protected and the whole 700 million people are considered as brothers and sisters. But it is quite unfortunate that a country which has always stood for peace has to face the onslaught of the terrorists from within and from our own blood and blood and flesh and flesh.

As I have stated, I am in full agreement with the contents of the Bill. However, I would like to attract the attention of the House at some of the salient features of the Bill. I agree with Prof. Dandavate when he has stated that Jammu and Kashmir should somehow be brought within the purview of some legislation so that terrorist activity may not be allowed to happen in that State also. Clause 1(3) clearly states that the Bill is only for two years. That shows the intention of the Government. It is not the intention of the Government to continue this Bill indefinitely and to harass people. The only intention of the Government is to curb terrorists' activities so that the innocent people may live in peace in this country.

Coming to Section 3(3) and 4(1) I would like to suggest that Section 3(3) says "Whoever conspires or attempts to commit, or advocates, abets, advise or incites or knowingly facilitates....." I have a doubt here. I would like to know whether those who knowingly give help to the terrorists

would be brought within the ambit of this Clause. If not I would suggest that words may also be added "all those who knowingly give shelter to the terrorists." It is very important. If terrorists are given shelter it is difficult to find them out and stop their terrorism.

Now, I come to Section 5(3)(g) where it is said :

"Prohibit attempts by any person to screen from punishment anyone, other than the husband or wife of such person."

This rule is meant so that only the husband and wife can mutually escape and all the others cannot escape the scene. I would suggest if Section 5(3)(g) is read along with Section 3(3) 'knowingly facilitates' is capable of including persons who give shelter to the terrorists then this is sufficient. If not then I would suggest that those who give shelter to the terrorists should be brought under the purview of this Act.

Sir, Section 5 which deals with power to make rules has come under severe criticism. I am happy that the Law Minister himself has brought forward an amendment specifying the authority to whom these powers can be empowered with. But no one has referred to Rule 21. Even Prof. Dandavate who claims to have read the whole Bill including the Statement of Objects and Reasons has commented on this rule. Rule 21 says :

"Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in Session..."

I am sure my friends on the Opposition have conventionally mentioned this rule because here is a chance for this House to consider every rule made by the law making authority. In the next Session when those rules come we get a chance to scrutinise whether there have been excesses or not; whether government have been fair or partisan. It is a big chance given to this august body and I feel none of the right of anybody has been taken away by this Bill. So, I congratulate the Law Minister for providing such a rule.

My learned friend, Shri Amal Datta has very sarcastically said that this Bill could be compared with Rowlett Act or Black Act. I am very sorry that our memory is not very old enough to forget that those laws were brought by a foreign ruler to try our patriots who have led the country to freedom. But what is the case here ! Here the traitors of this country are killing the innocent people and the government has come forward to protect the lives of the innocent from the traitors. Comparing it to Black Act or Rowlett Act is unfortunate. I may tell my learned friend that we will be able to fool some of the people all the time; all the people some of the time but we will not be able to fool all the people all the time.

Prof. Dandavate vociferously stated that there are already a number of laws in existence and therefore there is no need at all for this Bill. But, Sir, the position is this. This Bill has been brought forward because the laws now existing are not at all sufficient to meet the situation.

Now, regarding the provision under Part III, Section 7, on 'Designated Court' Mr. Amal Datta said that the whole section has been printed in larger prints. It is because these powers deal with the powers given to State Government. So, it is an unnecessary fabrication, according to him. I am sorry to say that this is a mistaken interpretation. Part III deals with designated courts. Here we are deviating from the normal procedure of our trials in the existing courts. This is one of the major parts of the Bill. We are following the summary proceedings. We are constituting special courts for this purpose. It is to highlight this, that this section has been given in larger prints. The whole thrust of this Part III is that we are constituting these designated courts. It is not that no power is given to the State Government.

Finally I wish to say that a few friends from the opposition said that the whole of Section 18 may be deleted. We all know that law and order situation is the responsibility of the State Government. But at the same time the Central Government cannot shirk the responsibility for maintaining law and order in the country. These are not two or three water-tight compartments. If there is any breakdown of the law and order situation in any State, there will be a big hue and cry and immediately the Centre

[Shri A. Charles]

has to respond. So, I would plead with the opposition that they may consider the seriousness of the situation and they should not press for the withdrawal of Section 18. Hon. Members or the opposition are one with the spirit of the Bill and they are one for curbing the terrorist activities. Therefore, let them not press for deletion of Section 18. Let us all pass this Bill unanimously so that 700 million people of this country will be happy that they have placed their faith on this great body and that their faith is not misplaced. With these words I support the Bill. Thank you.

[Translation]

**SHRI ZAINUL BASHER (Ghazipur) :**  
Mr. Deputy Speaker, Sir, I support the Bill introduced by the Home Minister, but I would like to draw the attention of the Home Minister to the fact that he is mainly responsible for dealing with the terrorists. Through this Bill, Government want to equip themselves with more powers. We have no objection to it. The House is prepared to give them any powers they want to have to curb the terrorist and disruptive activities, but, Sir, through you, I would like to draw the attention of the Home Minister particularly towards its implementation. It will be the responsibility of the State Governments and the police to implement this law and if they do not implement it properly, honestly and judiciously, I fear that it will prove more harmful than helpful. Prof. Dandavate was saying just now that carelessness was shown in arresting and prosecuting the terrorist and disruptive elements in Punjab. We all know how the police are functioning in Punjab. Earlier, some incidents of treason had occurred in Kashmir. In that case, the Union Home Minister had to ask the State Government of Jammu and Kashmir to take action against the traitors. But we all know what had happened and what action was taken there. We have witnessed in this country the communal, racial, regional and linguistic tendencies of the police. We have seen it in Assam also. The police was given powers to implement several measures. The result is before us. Recently, communal riots broke out in Bombay and Bhiwandi. The Shiv Sena Chief, Shri Bal Thackeray said certain things which led to the breaking out of riots. An atmosphere of terror was created at Bhiwandi and that too

against a particular community. What was its result? They were killed, their properties were set on fire and most of the people of that community were sent to jails. Muslims were killed. The properties of Muslims were burnt and most of the people sent to jails were Muslims whereas Bal Thackeray Sahib of Shiv Sena and others roamed about freely. What is happening in Ahmedabad today? An atmosphere of terror is being created there. The Home Minister is aware the people of which community have been killed mostly and who have suffered loss of property more. It is very well known that mostly the Muslims were killed. Prof. Dandavate is not present at the moment but Mr. Banatwalla will tell you about what happened there. Muslims were killed in larger number and their properties were badly damaged. Which is the community whose people are in jails in a greater number? They are Muslims. The communal riots which took place at Moradabad, Meerut, Jamshedpur and at other places were directed against the Muslims or the minority community. The police have acted according to a specific tendency. The same things were repeated in Baroda. How will you check it? If this anti-terrorist law is implemented against those very people, then what will happen? I would like to draw the attention of the Home Minister towards a specific thing. During the emergency, the Defence of India Rules were enforced. The photostat copies of the F.I.R. were attached to the Defence of India Rules. Anybody's name used to be filled in it and the signatures of the District Magistrate's used to be obtained on that. We had seen those papers. The District Magistrate used to put his signatures on the dotted line. He had no machinery to find out the real position. He did not apply his mind in many cases. If the people are arrested in this manner, I fear, that instead of apprehending terrorists, this Bill would cause resentment among the people and that may lead to an increase in the number of terrorists. The real terrorists or the gangs of terrorists are likely to be benefited thereby. I support this Bill. But I would like to warn the Home Minister that it should be implemented quite judiciously. The tendency of the police will have to be tackled in a very wise manner. This Bill is not meant for nabbing the terrorist in Punjab only, but it will be for the entire country and as I

have said, it will affect mostly the minorities and particularly the linguistic minorities.

What happened in Assam? In Assam, the local police crushed the Bengalis whether they were Hindus or Muslims. What is the Punjab police doing today? The Punjab police is dominated by the people of a particular community and they are against the other community and everything is happening there accordingly. You will not be able to do much against the terrorists even if this Bill is passed. You will have to tone up the administration for it. After the enactment of this law, action can be taken in Delhi and Chandigarh, but you will experience difficulty in taking action in Punjab under this law, because the tendency of the police there is different. Similar is the case in Gujarat, U.P., Assam and other States. You will have to be very cautious while taking action. I do not have any doubt about your intention. I fully respect you as the Home Minister and as a man also. It is your job to tackle the situation in Punjab and at other places. My duty was to caution you about these dangers and that I have done.

[English]

SHRIMATI GEETA MUKHERJEE (Panskura) : Sir, we are all concerned with the recent spate of terrorist activities in different States; in and around Delhi and other States, more than 84 lives of innocent people have been lost and hundreds have been injured. One thing is very clear that this is a planned activity and it is intended to torpedo any political solution.

I want to put the record straight that our party has always been against acts of individual terrorism, and there is no question of allowing this kind of terrorism enacted with far reaching plot for destabilization of India. For putting the record straight, I also want to make it clear that it is not only today that these acts of terrorist activities have broken out, though the dimension is now very much portentous. My party in Punjab itself has fought against this kind of terrorism; even some of our comrades have lost their lives. So, we can claim that it is not only in words, but in deeds that we have fought terrorism.

At the same time, we have also fought for what we consider the legitimate rights of

the Punjabis, which I think, remain upto now very valid. I would, however, not like to explain it further. Some consensus was arrived at and we stick to that even now. But I would like to point out one thing. I am very much perturbed to read in the newspaper either today or yesterday that the young boys who have now taken to this kind of activities have no previous record of any criminal activities. The newspaper has mentioned it through police sources. To my mind, it shows a facet that these acts are being practised by a new layer who cannot be called criminals. Therefore, while dealing with this phenomenon, we should remember that on the one hand administrative and legal steps are necessary, but on the other, very serious political will and persistent and consistent convincing are also necessary. Therefore, I point out this fact that no amount of law alone will be able to fight this phenomenon, unless definite political steps are taken to isolate these terrorists from the broad masses of Sikh population for which we have to go a long way. I am glad in this spate of violence, citizens of Delhi and nearby places where these things have taken place, have not taken to any retaliation anywhere and that has helped to some extent. Even then, I think I should put it on record that there should be further pursuing of political campaign.

Now, as far as our serious misgivings about the present Bill are concerned, I will come to them later. But at the same time, at this moment, let me also clearly state that I consider the recent statement made by Mr. Joginder Singh, not even agreeing to condemn the terrorists formally, is very dangerous. As you all know, this Mr. Joginder Singh is Bhindranwale's father.

SHRI G. G. SWELL : Not only not condemning, but he eulogised the terrorists.

SHRIMATI GEETA MUKHERJEE : Exactly and that is a separate thing. Despite being asked, he refused to condemn the terrorists. Secondly, all this tom-tomming of Beant's wife and Satwant's somebody with the label of martyrdom etc., is also very dangerous.

SHRI G. G. SWELL : It is not mere tom-tomming. It is blasphemy.

SHRIMATI GEETA MUKHERJEE : Well. All right. You can use even stronger words and I will sympathise.

(Interruptions)

SHRIMATI GEETA MUKHERJEE : I also put it on record on our part that much more forthright condemnation from those among the Akalis—who condemned the violence to some extent—is necessary. These people are not condemning.

So, there was a possibility and there is a possibility of national consensus on how to tackle the situation. That is why I think that instead of rushing this Bill, if really some steps are taken to involve all in the framing of this Bill, probably, it would have been much better. With that idea, I moved the amendment on eliciting public opinion. Of course, as I understand, the Law Minister is not going to accept it. I would have been very happy if he were to accommodate it. Anyway, I think that there is still a possibility.

Now about the Bill itself, you see that the Bill is hurriedly drafted. But I also admit that our amendments are also not unhurriedly drafted, because it is impossible within the course of four hours. You took so much time to draft it. I would request the hon. Law Minister to take into consideration our notional amendment and see if he can really accommodate it and I think that would go a long way. If he cannot, naturally, we shall have to think over. About the Bill, I noted that no newspaper has come out with any editorial as yet. But then, I also noted that several newspapers which are far from the Leftists have noted the fact that this Bill gives very sweeping powers to the Government. *The Times of India* headlines include the fact that a Bill with sweeping powers is introduced. *The Telegraph* said : "Government has sought to arm itself with sweeping powers to deal with terrorists." *The Free Press Journal* and the *Deccan Herald* also use the words, 'sweeping powers'. Sweeping powers in the hands of the Executive, as it stands today, is a thing we cannot accept without questioning, because we have some experience. Sweeping powers were taken under the National Security Act. When we were debating the National Security Bill, we said : "Here, you take such provisions which can be applied, and misused, against normal trade union

activities." I remember that the then Home Minister assured very broadly that it would never be used so. I remember our saying: 'Kindly write it down in the Bill that it will not be used against normal trade union activities'. The then Law Minister said : "Why are you so suspicious? We are saying that it will not be used." What has been our experience? As soon as NASA was passed—earlier, the MISA also had the same fate—the first person to be arrested under it was an activist of the All India Trade Union Congress in connection with a strike of the workers. It was said that it was in the interests of national security that NASA was being passed. But in actual implementation, our apprehension and concern were proved to be correct. Can anybody deny this?

PROF. MADHU DANDAVATE : Under MISA, Jayaprakash Narain was arrested.

SHRIMATI GEETA MUKHERJEE : And under MISA, several people of several types, beginning with Jayaprakash Narain, and including us who were at that time supporting the Emergency, were also not spared. I remember I just escaped, but many others could not escape.

PROF. MADHU DANDAVATE : There, you were punished for supporting the Emergency.

SHRIMATI GEETA MUKHERJEE : May be. But during the NASA debate, many did not speak, as we did, but fell a prey to NASA later on. So, I would particularly say : those who did not speak as we did about NASA, fell a prey too. Who knows that under these sweeping powers which are being taken under the Terrorist and Disruptive Activities Bill, others will not fall a prey?

That is why I am very particular about the definition given to the term terrorists. In respect of the definition of terrorists, we have given several amendments. I am not saying that ours are very well formulated amendments. But what is the notional idea behind the amendments I or some other Members have given? It is that this clause may be misused.

MR. DEPUTY SPEAKER : Please wind up. You have to.

SHRIMATI GEETA MUKHERJEE : Just a few minutes. I will try to wind up.

I am speaking on a "historical Bill" at this "hour of national crisis." as the Law Minister said. You should give me 2 or 3 minutes' time. In a period of national crisis, five minutes should not matter.

PROF. MADHU DANDAVATE : Well said.

SHRI G. G. SWELL : You are contradicting yourself.

SHRIMATI GEETA MUKHERJEE : If you are interested, listen to what I say. If you are not interested, I will sit down.

Why do I want this Clause 3 to be amended to some extent? It is a very loose formulation covering everybody. My point is : why say "...or any section of the people or to alienate any section of the people" etc.? Why not clearly mention instead, 'those who disrupt harmony among different castes or religion...' That is our approach. Why not? This would serve the purpose, but it will not leave the connotation so wide. Now about the use of the words "...of a hazardous nature in such a manner as to cause..." and again,

"or disruption of any supplies or services essential to the life of the community..."

From West Bengal, our Congress Members are not here now. In West Bengal, often you will see that the party which is in the opposition in the State, that party rules at the Centre, their members called a *bandh*. Hazardous material was thrown at the running buses to disrupt communication. Tomorrow, if we start to catch them under the Terrorists Act. Will you all like it very much? Nor do we want to be arrested in other places because of an anti-price rise movement culminating in a *bandh*, total disruption of the supplies? Here, the notional amendment is to reduce the scope. What about class hatred? That also could very well be related to communal and religious things. It could very easily be delineated thus. As I said, these definitions scares us because we had suffered under these definitions under various law.

Madhuji has raised a point about the State Governments and his amendment with regard to the concurrence of the State Governments is very relevant. Unless you make the State Governments to cooperate, will be able to catch people there?

These designated courts are nothing but special courts. You have the special courts. What is the difficulty? Why not give appellate power to High Courts instead of Supreme Courts? So, there are some such at least major amendments; some may be notional; some may be formulated. If the Law Minister even now takes them into consideration, it could be helpful for all of us.

As it stands, we have a very serious apprehension that misuse is sure, more over Mr. A. K. Sen or Mr. Chavan will not be implementing it, it is not possible. The bureaucracy and the police would implement. Therefore, I request the hon. Minister to take into consideration the amendments that we have moved and do not take such sweeping powers which may not help all of you in future.

SHRI KOLANDAIVELU (Gobichetti-playam) : As has been rightly stated by the hon. Law Minister on Friday, we are facing an unprecedented danger even to the property, our lives are at stake. So, we are right in bringing forward this Bill in order to curb terrorism and extremist in the country; and you may be knowing well that the country is now facing and passing through turbulent times, multiplicity of controversies, complexity of problems arising out of it and actually now the controversies and problems which we are facing are breeding bitterness, despair, fomenting hatred and unrest and generating discordant and dissatisfaction at different levels from different places. I would say that it is not beyond the capacity of India or it is not difficult for India to get over this crisis.

But of course, our Prime Minister Shri Rajiv Gandhi is taking every step to curb all these activities. But the credit goes to the present Government that will all its limitations it has refused to be provoked into overreaction by those bent on plunging the country into terrorism and cross purposes. And the credit also goes to our Prime Minister Shri Rajiv Gandhi for preserving this equanimity who has not lost his cool composure even in the face of grave threats to his life. I would suggest that regarding the terrorists and insurgency activities, a terrorist movement is different form insurgency.

[Shri Kolandaivelu]

I am glad that the Palestinian Liberation Organisation, the Irish Republican Army and some similar groups like the Bader Meinhof of West Germany, the Red Army of Japan, all these have failed, miserably failed.

I am glad that the Government has come out with this Bill to deal with terrorists and extremists. Our Law Minister, who is a luminary of law, has brought the Bill. I am not able to control myself because of the fact that it is only a reproduction of the Indian Penal Code and the Criminal Procedure Code. Nothing except them, you have come with a Bill, you have introduced a Bill even though we have innumerable laws in India. So each and every law can be enforced to deal with the terrorists and extremists. I would like to bring this to the notice of the Government. Unfortunately, he has provided that in spite of all the existing laws, under Clause 18 the Central Government is taking away the powers of the State Government. It is a power to encroach upon the powers of the State Government. Here you have appointed a Commission, the Sarkaria Commission. For what purpose? That Commission is actually going to deal with the devolution of powers between the Centre and the States. The Commission is appointed by the Central Government. The same purpose can be achieved without taking the powers of the State Government. It is an infringement upon the State Governments.

You are bringing a law in order to curb terrorists and extremists and as far as I can see, under Clause 18 you are taking away the law and order powers of the State. Then, what is the position of the State. It will become just like a municipality under the State Government. It will become a post office, just like that, in the ordinary village. So, what right have they got to do it? The State Government will not be having any power at all if you bring this Bill with Clause 18. So, I request the hon. Law Minister not to take away the powers, or to take away the Clause or to have a suitable amendment that the State Government will act in accordance with or in consultation with the Central Government in using powers they have acquired. Then only it will be correct. Otherwise in the guise of this Act the CBI people can go into any part of the State and do anything, as if there is a law and order problem.

Please do not mistake us even though we actually—we the Anna DMK people—are in alliance with the Congress, we have got every right, we have got every right to say, and to oppose it, and every right to request him to agree to have an amendment about this provision in this Bill.

And even in regard to the Evidence Act the right of evidence is taken away by this Act, in order that the identity of the witness should not be disclosed. What does it mean? I was a practising lawyer for about 11 years. I know what the prosecution people actually do. They are having stock witnesses. If a case remains undetected, they will come prepared with stock witnesses, produce the FIR and later there will be trial.

PROF. MADHU DANDAVATE : There is an institute in Bombay to train the witnesses.

SHRI KOLANDAIVELU : The Government is here to protect the people and the witnesses. When such is the case, this is an infringement on the Fundamental Rights of the citizens of India. You are taking away the Fundamental Rights of the people. Under Articles 14 and 19 you are taking the powers. I request the hon. Minister to bring an amendment to this also.

You are taking away the appellate powers also. There is a designated court. After the Judgment of the designated court, the appeal only lies to the Supreme Court. So, you are by-passing all the courts. Gradually you are not relying upon other courts. You are the Union Law Minister. You have appointed judges. Those judges are in the chair. They have the Magistrate courts and all that. But the appeal will go from the designated court to the Supreme Court only. What will happen to the other courts? Are you going to abolish all the other courts then? Are you not relying upon those judges?

SHRI A. K. SEN : You want the appeal to last for years.

SHRI KOLANDAIVELU : On Friday you have stated that the designated courts are being created for speedy trial. We know fully well what speedy trial actually means. It means that it will take years together. That is the speedy trial. Even the criminal

cases are pending for years together in High Courts and the Supreme Court. The other day, you have said in the House that lakhs of cases are pending. When such is the case, even then you are giving other powers to the Supreme Court and the cases under this Bill can be transferred from designated courts to the Supreme Court and the appellate power is being held only in the Supreme Court. What will happen to the pendency? The pendency will be larger. And justice delayed is justice denied. When such is the case, I oppose clause 18 and also clause 13(c). I also request the Government not to take away the powers of the State Governments. You keep always in mind the non-Congress (I) States. You may be keeping an eye on West Bengal and other Governments but not on Tamil Nadu, because Tamil Nadu has always been the safest State for you. Even on the political side, this is the safest State for you. I request you to bring some amendment to this Bill so that the Bill may be passed unanimously, because we all are all united in this country to curb terrorism and terrorism has to be curbed.

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : I would like to intervene in the debate on the Terrorist and Disruptive Activities (Prevention) Bill which has been moved by my esteemed colleague, Shri A. K. Sen.

A large number of things have been said here. One of the things about which we have to be absolutely clear is that let us not confuse the political settlement of the problem and the terrorist activities indulged in by a handful of terrorists. Government is very much determined so far as the terrorist activities are concerned that we try our level best to avoid the situation to the extent it was possible, but now it has taken a different face. The magnitude of the problem has also considerably increased. Hundreds of people have lost their lives, a large number of people have been injured or maimed and a kind of a situation has been created herein their very purpose was that a permanent cleavage should be created between different communities. Fortunately for us the citizens of Delhi, Uttar Pradesh, Rajasthan and Punjab have also acted in a very mature manner. That is why I would like to take this opportunity of congratulating all those who did not react very

violently. Since they had not reacted violently, efforts are on.....

SHRI BRAJAMOHAN MOHANTY : Did you anticipate violence ?

SHRI S. B. CHAVAN : Of course, there is no denying the fact. Everybody knows this. We anticipated that certainly there was going to be some kind of a reaction. But fortunately people have behaved in a very mature manner they have not fallen in a trap which was laid for them by the anti-national and other elements who are indulging in this kind of an activity.

I also consider this to be a very happy augury that this kind of terrorist activity has been condemned by all sections of the society, including the Sikh intellectuals and Sikh leaders. This clearly establishes the fact that these people will have to be isolated and we will have to deal with others wherever the situation arises on political plain. There, of course, I would not like to dilate at this stage.

A question was raised by an hon. Member, who I think, is not here at the moment that since sometimes this kind of activity was being indulged in some areas, why is it that all of a sudden we have taken these measures now? Why was this not taken up earlier? I think the hon. Members should be able to appreciate the fact that there is a qualitative change in the entire situation—the situation as it was obtaining in 1980-81 when stray incidents of similar nature were happening in some of the North Eastern States. In Punjab also they were happening. In 1983, a Bill was passed for creation of special courts, for trying certain offences. But under this Bill now there is a distinct change. Offenders are going to be tried by designated courts and a kind of very harsh punishment has now been prescribed in this Bill. Under the 1983 Act, actually the provisions then obtaining merely created a separate agency for trial of offences, but did not have a deterrent effect. Now, deterrent punishment has been prescribed under this Bill. So, hon. Members should appreciate the distinct difference between the situation obtaining in other areas and the situation now obtaining in some of the areas of our country.

A great deal has been said about the creation of designated courts and the powers

[Shri S. B. Chavan]

of the State Government. There is a kind of distrust that we are showing against the State Governments. I do not think that anything of that nature is being attempted through this Legislation. Actually there is no question of having any particular State Government in mind. Either this State or that State, but there can be conditions wherein offence may be committed. After all, for these terrorists they do not have any particular jurisdiction, that they will commit the offence in a particular State and will not go to the adjoining State.

15.39 hrs.

[MR. SPEAKER *in the Chair*]

In order to have powers this was thought necessary that if the Central Government is satisfied that the conditions are prevailing and they are of such a nature that these powers need to be emphasised by the Central Government, certainly we should have an enough provision by which we should be able to exercise the powers against the offenders who have committed offence in a particular area, ran into an adjoining area or ran into different areas. We should be able to nab them and take action against them. The hon. Minister of Law will be able to react to the other amendments that have been moved by some of the hon. Members. I can assure the House that this Bill is not going to be misused by Government, either by the Central Government or by the State Governments. Instances have been quoted by some of the hon. Members that some of the State Governments seem to have misused the powers under the National Security Act, and often is being stated that the powers which were given to the Central Government have been misused for suppressing any political activity for suppressing any workers' movement. I do not think that anything of this nature is contemplated under this anti-Terrorist Bill. In fact we have only the terrorists in view and we would like to defeat their attitude and objective by which they would like to create some sort of dissensions among different sections of the society, create chaotic conditions and thus 'succeed' in their objective of having their demand of seceding certain areas from our country. That seems to be their objective, but still they have been including in this and we have to curb this, and that is the main objective that we have in view. I do

not think that any other activity is contemplated remotely also either for suppressing any kind of political activity that political parties might be indulging or suppressing any workers' movement, labour movement. Nothing of this nature is contemplated. Even under the NSA also I do not know whether it is proper on my part to say this, but I think the hon. Members will be able to appreciate the fact that most of the powers were delegated to the State Governments. Certainly no hon. Member has in view that since they have misused the powers, all the powers which they have been entrusted with under the NSA, we should not give them any powers under this. That is taking another extreme view of the situation. Ultimately the State Government is the instrument through which the Central Government has to act. We cannot distrust the State Governments, we have full confidence in the way they have been acting so far and at least I can say...

PROF. MADHU DANDAVATE : That means, you are accepting our amendments.

SHRI S. B. CHAVAN : Let us see, I cannot possibly say anything. The hon. Minister of Law will be able to tell you as to what happens to your amendments.

Another point was made by hon. Member, Shri Zainul Basher. It is a very valid and important point that these provisions are all right, but ultimately the whole thing is going to depend on how effectively these powers are going to be used either by the Central Government or the State Government and specially in view of the fact that the kind of police set up that we have. I do not think I can subscribe to the view that the entire police machinery and the way they have been enforcing law and order needs to be condemned. But at the same time I am prepared to concede this point that they will have to be given some kind of orientation, new training will have to be given as to how to deal with different situations, communal situations. Specially he mentioned this here. I think the hon. Member may be aware of the fact that we have sent circulars to all the State Governments requesting them to create new battalions of policemen who will be able to discharge their duty in the riot-prone areas.

SHRI ZAINUL BASHER : No State Government is doing it.

**SHRI S. B. CHAVAN :** It is a matter of persuasion. I don't think that we can do anything more than what we have been doing so far. We can call the conference of all the Chief Ministers stressing the point as emphatically as possible and as within our power to understand the gravity of the situation. If a situation is created by which the entire population of a particular sect expresses a sort of no-confidence in the machinery which is ultimately going to enforce law and order, I think, it is will be a very bad day for any administration. That is why, I feel quite confident that the State Governments should be able to see the reason and create this kind of force, a kind of mixed force so that a kind of confidence is being generated in the people where such problem has arisen and where the law and order machinery has to play its role very effectively. Reorientation to the police machinery, giving them new kinds of equipments, some kind of sophisticated equipments also is necessary. If we succeed in creating a situation wherein not only the existing machinery but the reserves are also deployed, it would be better. We have no reserves left. Even the training reserve personnel are also being deployed somewhere or the other. I am not talking of the regular costabulary but even the CRPF and BSP are deployed. Our resources have drained to such an extent that even the in-service training which has been expected of them to undergo at regular intervals has become rather difficult. But the point is well taken that new orientation is necessary and in this matter, we will have to be very effective. All powers have now been given to the law enforcing agencies. There should be no excuse for saying that, we did not have the powers and that is why we could not take this action or that action.

**MR. SPEAKER :** Mr. Home Minister, it is not only Mr. Zainul Basher but also Prof. Madhu Dandavate who is eager to know whether you are going to implement this point or not.

**SHRI S. B. CHAVAN :** The point raised by both Shri Zainul Basher and Prof. Dandavate...

**MR. SPEAKER :** I am also interested to know this.

**PROF. MADHU DANDAVATE :**  
Because he was speaking to that side,

you indirectly asked him to address you since you are in the chair.

**MR. SPEAKER :** That is why, I put this point.

**PROF. MUDHU DANDAVATE :** You say, my face is more beautiful; look at me.

**SHRI S. B. CHAVAN :** Thank you for the advice, Sir. So, the point is well taken note of. The law enforcing agencies will have to be given a new kind of training, new orientation, new understanding of the problems, new equipments which are required for effectively dealing with the problem which they are supposed to confront. This point has been well taken. I don't think that I should dilate any more on this issue. Rest of the points which the hon. Members have raised, the hon. Law Minister will be able to very ably reply.

**SHRI BASUDEB ACHARIA :** He has given assurance that it will not be used against the political movement, trade-union movement and the political workers. But this assurance was given previously also when MISA and NSA were enacted. Is there any difficulty to incorporate this assurance in the Bill? I think, this assurance should be incorporated in the Bill itself.

**MR. SPEAKER :** This point has been taken.

**SHRI RAM PYARE PANIKA :** Are you going to move an amendment?

**SHRIMATI BIBHA GHOSH GOSWAMI :**  
*Suo motu* amendment can be moved by the Government.

**SHRI G. G. SWELL (Shillong) :** Mr. Speaker, Sir, let us be clear headed and clear eyed about the it. This is an extraordinary measure to meet an extraordinary situation. We are sitting in this House in an extraordinary session because it is an extended sessions. We are sitting in an extraordinary session to adopt this extraordinary Bill to meet an extraordinary situation outside the corridors of this House, in the country and across the borders of this country.

**PROF. MADHU DANDAVATE :** Only Chair is not extraordinary.

**SHRI G. G. SWELL :** I would like to have your attention. Now, having said this,

[Shri G. G. Swell]

I would first deal with the apprehension expressed by Members, one from this side of the House and the majority from the other side of the House, that the provisions of this law are likely to be misused. The most I can say is that it is a conjecture, it is an anticipation.

PROF. MADHU DANDAVATE : On the basis of experience.

SHRI G. G. SWELL : We lose sight of the fact that this is an extraordinary situation and we are discussing this in the wake of the loss of so many innocent lives in Delhi and the surrounding areas over which we shed so much tears just a few days ago.

I want to say this and I want to go on record that the situation in the country today is more dangerous than when we faced an external aggression. This country has been aggressed upon four times in the past.

There was never a time when external aggression has taken the life of Prime Minister of this country.

It is more dangerous in the sense that the fear of external aggression is still there, very much there.

PROF. MADHU DANDAVATE : Panditji broke down after 1962.

SHRI G. G. SWELL : He was not murdered. He was not assassinated. What I would like to say is this that danger to the country remains the same. I do not think there is anybody here who would say that there is no external danger and that external danger is not only from Pakistan. Pakistan has been our favourite whipping boy all this time but the dimension of external danger in this country has grown much larger.

There might be an aggression to this country in the near future, from Shri Lanka. I do not know. I am not sure whether the Government authorities in Sri Lanka are in control of the situation, whether they do not function with the pistol on their heads from the hot-headed extremists in Shri Lanka and whether the external foreign agencies in Sri Lanka do not have a hand in moulding the policies of that country. We all know the danger that comes from the Indian Ocean and this external danger outside is

linked up with internal subversion in this country which we did not have at the time of previous external aggressions.

I would like this House and this country to be aware of this, of what we are talking.

There is definitely a resurgence of internal subversion in this country. If there is anybody in this House or in that side of the House who says there is no such danger, let him stand up and say that.

AN HON. MEMBER : It is the failure of the Government.

SHRI G. G. SWELL : There is danger of internal subversion and this internal subversion has links with agencies outside. Only the other day we talked of the uncovering of the plot to assassinate our Prime Minister, in the United States and the Federal Bureau of Investigation of America has come out with more statements that these people, the terrorists, the anti-nationals, the disruptionists were only a tip of the ice-berg and it was uncovered in New York. These anti-nationals have got a well laid-out plan to carry out sabotage activities in this country including the blowing up of a nuclear plant and, therefore, this is an extraordinary situation and an extraordinary situation requires extraordinary measure.

While listening to my friends on that side of the House, I have been musing whether they are aware of this or Zombic-like you go through certain measures because of certain political compulsions of one type or another. I heard Mr. Amal Datta. Among many of the points he made, he said that this Bill has been brought because there is a growing resentment in this country as a result of inflation in prices and the Government wants to safeguard itself from that kind of a situation. That is what he said. I say that this kind of argument is nothing short of perversity.

PROF. MADHU DANDAVATE : Inflation of terrorism. (*Interruptions*)

SHRI G. G. SWELL : And this Government has been very can did about this : they say that the life of this law, after we have passed this Bill, is only for two years—and a full stop. They do not even speak of renewing or extending or anything of that sort. Does Mr. Amal Datta think that

within two years this Government is going to pieces? If he does that, then, I think, he is living in a fool's paradise. The Government has made a gesture, given an earnest that law will be only for two years to meet an extraordinary situation. I hope that, at the end of two years when we are able to break the backbone or annihilate the danger to this country from inside, there will be no more need for this law. I would appeal to my friends in the Opposition...

PROF. MADHU DANDAVATE : More than one speaker on the Opposition side has appreciated this point that we have this law only for two years.

SHRI G. G. SWELL : What I want to ask you is this. For this period of two years, leave aside all your reservations and all your suspicions and come forward and support this Bill in full measure. Let us join hands together and destroy this terrorism. That is all I want to say. (*Interruptions*) I mean, whatever mental reservations you have. Some Members have expressed so many reservations, I say : come out without any reservation. There is a danger.

I think, Mrs. Geeta Mukherjee talked about Fundamental Right. Did not those 100 people, innocent people, who died as a result of the dastardly transistor bombs and booby traps have the fundamental right to live?

SHRIMATI GEETA MUKHERJEE : I have myself condemned those acts.

SHRI G. G. SWELL : Did they not have the fundamental right to live? They were deprived of their right to live. Why? (*Interruptions*) This is the point I am making. They were deprived of their fundamental right to live because of the extraordinary situation. And this is an extraordinary measure, as I said. I think, that is all about this appeal I want to make.

I just want to meet one or two points made by my friends. Prof. Madhu Dandavate had a point when he said that in a measure like this we do not have to be very detailed, we do not have to mention about songs, ballads and things like that... (*Interruptions*)

PROF. MADHU DANDAVATE : 'Dance' is eliminated from that.

SHRI G. G. SWELL : Here, in this Bill, it is stated :

"... 'disruptive activity' means any action taken, whether by act or by speech or song or ballad or verse or words or by any book, pamphlet, paper, writing, record, tape video cassette, drawing, painting, representation or in any other manner whatsoever..."

I think, Prof. Madhu Dandavate is a very knowledgeable Member. He knows...

PROF. MADHU DANDAVATE : Again defamation!

MR. SPEAKER : But I will allow this to be on record.

SHRI G. G. SWELL : Then I would say that he is an ignoramus and I am trying to educate him. I hope he knows what the situation in Punjab is. We have these extra-

16.00 hrs.

ordinary speeches by the top leaders of the new ad hoc committee of the Akalis. I must say again here that this Bill is not against the Sikhs, it is against terrorists and disruptionists and for that matter, a terrorist and disruptionist can be a Muslim, he can be a Christian and we do have for many years now terrorists and disruptionists in my part of the country—the Nagas, the TNV in Tripura or the Mizo National Front...

MR. SPEAKER : No religious person in the true sense can be a terrorist. This is against terrorists.

SHRI SAIFUDDIN CHOWDHURY : For that part of the country the Government did not make the law.

SHRI G. G. SWELL : My point is that these people have been terrorists and disruptionists for the last 20 years.

SHRI SAIFUDDIN CHOWDHURY : Why were you not able to wipe them out?

SHRI G. G. SWELL : There are many reasons for that. One is the terrain. One is the border. Many of these chaps function from across the border. There are reasons,

[Shri G. G. Swell]

But because these sorts of things are happening in the fringe of the country, the government has taken every precaution and continued them and the danger has not attained that dimension that it has attained to-day. What has happened there is now happening... (*Interruptions*) Why don't you listen to me.

**SHRI SAIFUDDIN CHOWDHURY :** For his information, armed police is let loose on the Naxalites.

**SHRI G. G. SWELL :** I think everybody here will agree that this kind of terrorism and disruptionist activity has attained a much greater dimension to-day. It is now in the heart of the country in Delhi itself. The Prime Minister of the country was assassinated here in Delhi, in her own house. The bombing of innocent people has taken place here in Delhi and now we have this uncovering of a new external dimension. We have the upstaging of the moderate Akali leadership and taking over of the affairs of the Akali Dal by the extremists. Here we have this gentleman who has been calling on the Sikh youth to arm themselves. He has been saying that it is the right of every Sikh to enter the Akal Takht with arms, that it is the duty of these people to fight. They have been eulogising those people, the criminals who have taken away the life of Mrs. Indira Gandhi. They have honoured them. They have their links with outside as revealed by nobody else but by the Federal Bureau of Investigation on American soil which I say could be a blessing in disguise so that the Americans and the whole world could now realise the danger this country is facing from the activities of these people.

I am missing my point. You must be aware that all over Punjab to-day Bhindranwale has become a sort of folk hero. His name is being sung in ballads and in songs everywhere...

**SHRI NARAYAN CHOUBEY :** Last year he was called a saint.

**SHRI G. G. SWELL :** Therefore, it is in that context that songs and ballads could also be a disruptionist activity. When people sing the song and ask for a struggle against the Delhi Takht when they call for disruption, when they lionise the people who

have committed crimes in this country and are openly calling for the dismemberment of this country, is it not disruptionist activity. Therefore, it is necessary to pinpoint that you cannot do that sort of thing.

Sir, I do not want to take very much time. I know that my time is limited. I want only to ask this question of the Law Minister and many other members also have asked the same question. In your Bill you have excluded Jammu and Kashmir. You have excluded Jammu and Kashmir from the purview of this Bill. I do not understand this. This is an extraordinary Bill to meet an extra-ordinary situation and we know for certain that Jammu and Kashmir is not an island of peace in the turmoil that has overtaken this country. As a matter of fact it is the other way round. We know many of these terrorists and disruptionists have been trained over there. Why do you exclude Jammu and Kashmir, we would like to know? (*Applause*)

**PROF. MADHU DANDAVATE :** Sir, I take it that this applause should be counted as a vote in favour of my amendment for applying this Act to Jammu and Kashmir.

**SHRI G. G. SWELL :** We would appreciate it if you were to remove this apprehension from the mind of the members.

I do not want to take much time. I again would appeal to my friends on the opposition; let us join hands together and pass this Bill unanimously. Let us cooperate in implementing it and stamping out terrorism from this country so that the danger is removed and we have a new status in this world. If we are weak the rest of world will take advantage of us. If we are strong and united then the rest of the world will respect us.

[*Translation*]

**SHRIMATI KRISHNA SAHI (Begusarai) :** Sir, our country is passing through critical times. Several problems have arisen in the country and it is in such special circumstances that the Terrorist and Destructive Activities (Prevention) Bill, 1985 has been brought forward in the House. I support this Bill.

This new law is the creation of circumstances. In our country, new types of crimes are being committed. This Bill has been brought to meet the need of the hour.

Between 1983 and 1984, gruesome murders of innocent persons had been committed on a large scale in the Punjab, which included prominent literatures, Members of Parliament, great leaders and freedom fighters. Whosoever raised his voice against terrorism and extremism or condemned it was silenced. Their names were included in the hit list. It is a very serious matter for us and we have to deal with it with care and strictness.

The Akali Dal people or the terrorists or the extremists have no constructive programme and their objectives too are not clear. The situation in 1982 was not the same as what was prevailing in 1981 and by 1984 it deteriorated further. They have shown their programme by assassinating Smt. Indira Gandhi. After her assassination, the entire country was on fire. We have seen people becoming barbarous. I have seen that we have been entangled in many problems and no constructive programme has come to the fore. But the people of our country are great. Elections for the Lok Sabha were held and the people have made it clear that they are with Government.

Just now Smt. Geeta Mukherjee said that the Bill had been framed in a hurry and that we shall have to prepare public opinion for it. I would tell her that the public opinion has already been prepared and during the elections we got a massive majority. This Bill could be presented at that time but our Prime Minister acted in a sober way. Respecting the democratic norms and principles, the Prime Minister gave time to the Akali leaders because he wanted to settle the issue at the negotiating table in a democratic way. He established mass contact and talked to the people.

I remember when in the beginning this problem arose, Smt. Indira Gandhi had sent us there. We went there under the leadership of Smt. Aruna Asaf Ali. At that time it had appeared that they would not go to this extent. Now the killers of Smt. Indira Gandhi are being called martyrs and their wives are being given presents. Now the situation has reached a point where threatening letters are being sent to High Court Judges and bombs are being planted in the High Courts. Bombs and dynamites are being placed at public places like courts, trains, buses, aeroplanes and cinema houses. These

bombs have been planted in even protected areas and in the areas where our soldiers are posted. The huts of the poor too are being and blasted with these bombs. What crime have these innocent people committed? Even they are not being spared.

Recently, you must have read that bombs had been placed in women's toilets, etc., also. Now they say that they will settle the issue through parleys. An atmosphere of hatred is being spread in the name of religion.

In today's newspapers also, there are statements to the effect that there should not be any ban by Government on piling up of arms in the Golden Temple complex. Thus the people are being misled by giving a religious tinge to the problem.

I want to say that at a time when terrorist and destructive activities are being indulged in this Bill is a timely measure. This phenomena of terrorism was there earlier also. In other countries, the biggest movement after 1970 was in the USSR and it was called 'Nihilism'. This was controlled by the people's revolution. In that movement also a conspiracy to kill was hatched. In our own country also, a handful of terrorists unsuccessfully tried to overthrow the British regime. Our people came forward and took part in the freedom movement on the clarion call of our great leaders like Mahatma Gandhi and Pandit Jawahar Lal Nehru. We could make the Britishers leave this country only under the leadership of these leaders. Therefore, I support the provision of the designated courts. It is in three parts and there are 24 sections in it, all of which have been framed after careful thought and I heartily support it.

[English]

MR. SPEAKER : Mr. Saifuddin Soz.

PROF. SAIFUDDIN SOZ (Baramulla) : Sir, I never thought that my chance will come so early.

[Translation]

If I start in Urdu, I would say that please muster courage and then listen to what I say. (Interruptions)

MR. SPEAKER : Are you addressing me, Sir ?

PROF. SAIFUDDIN SOZ : I always address you.

MR. SPEAKER : I am just waiting. Please start.

[English]

PROF. SAIFUDDIN SOZ : Thank you for having called me this early. I never thought I would be called this early. I heard the Law Minister this morning with rapt attention and I support this Bill. Sir, while Mr. Sen, Law Minister, was explaining certain clause of the Bill, I heard him and I support all those assertions. It is a comprehensive Bill and he explained it very ably. He explained the important clauses that refer to punishment for terrorists' acts. The clauses are very comprehensive and the clause mentioning punishment for disruptive activities is also very comprehensive. I must say that this is going to be a very deterrent law.

16.16 hrs.

[SHRI VAKKOM PURUSHOTHAMAN  
in the Chair]

Sir, I support the assertions of the Law Minister that nothing will be tolerated against the integrity and sovereignty of India. I wholeheartedly support him. So far as these clauses are concerned, that is, Clauses 3 and 4 are concerned, I have moved two amendments and those amendments seem to be very necessary. The first amendment is that the law should be in force for two year. I would suggest that it should be in force only for one year because, may be in due course of time, we succeed in producing, in generating a kind of amity and goodwill where this kind of law would not be required. Why should it be for two years? It could only be for one year and God forbid if we require it for further period, we can extend it by another year at that time. But let us not be apprehensive from the very start.

In clause 3, I have suggested an amendment in the last line. When we talk of :

"disruption of any supplies or services essential to the life of the community..."

I want to insert here an expression, that is,

"Or incites violence involving damage to life or property..."

This is different from what you have mentioned in Clause 4. That is punishment for disruptive activities. This is punishment for terrorists' act. It means that the act of anybody who incites violence does not participate directly himself but incites the violence and by that way of inciting, damage is caused to life or property, will constitute an act of terrorism. So, he must have the punishment as you are proposing in Clause 3. But, Sir, after I have given my wholehearted support to this Bill and I have supported every assertion of the Law Minister, particularly, the assertion that nothing will be tolerated against the integrity and sovereignty of India, my suggestion that this law should be in force only for one year may be accepted. I may point out here that violence will ultimately breed violence. I want to refer to the violence that erupted in Punjab has continuously been expatiated by terrorists there, in response to that terrorism, we had operation 'Bluestar', in response to operation 'Bluestar' we witnessed the assassination of our Prime Minister in reaction to that. As a reaction to that heinous act, we had arson and riots in Delhi which were unprecedented in our history. Violence has continued and recently what happened in Delhi, Haryana and Punjab was something which we could not tolerate. People belonging to different shades of opinion condemned that terrorism and wanted the Government to take action. Therefore, the Government has proposed this law in response to what is happening in this country. I support it, but ultimately we must apply the Gandhian method. I do not say that you should drop a word from this Bill. I have given wholehearted support to this Bill, but if you want peace in the country, let us all try the Gandhian method also. I know, the Prime Minister's intentions are very honest. He wants an atmosphere of peace and amity in the country. If we give to the terrorist punishment in equal measure, that would generate an endless atmosphere of violence in the country. Gandhian method of non-violence should also be tried and a kind of amity should be produced in the country, so that we solve this problem, particularly the problem of Punjab. It is very unfortunate that despite the fact that the Prime Minister rose to the occasion and the wanted a meaningful dialogue, but the response does not seem to be positive and in equal measure. But we should not suffer from any kind

of despondency. Let all of us, belonging to various parties and all walks of life try for peace in right earnest. It is not a question where party interests should come in. This kind of proposition cuts across party interests, and as I said, peaceful methods, non-violent methods should also be tried so that we eradicate the atmosphere of violence prevailing not only in Punjab, but other States also.

As far as Jammu and Kashmir State is concerned, some people have widened the scope of discussion and brought in Jammu and Kashmir, I think, they should not have brought in Jammu and Kashmir. I have heard only one or two speeches. So far as Jammu and Kashmir is concerned, if you say that this law should be extended to Jammu and Kashmir State, I have personally no objection, and my party should not have any objection, because we do not want any kind of terrorism anywhere not only in Jammu and Kashmir. We denounce that. For the particular attention of Shri Dogra, I would say that you have installed a Government there which can never talk on behalf of the people. Anybody can talk, Soz can talk, but not the Government that you have installed.

I have denounced terrorism; I have supported this Bill whole-heartedly and all assertions of the Law Minister, but the Government there cannot speak on behalf of the people... (Interruptions).

SHRI G. L. DOGRA : They are as good as you.

PROF. SAIFUDDIN SOZ : Wait for that time. Do not suggest to the State Government indirectly to ask the Central Government for application of the provisions of this Bill to that State. I support this law; the people of Jammu and Kashmir will accept this, but the Government there has no right to speak on behalf of the people. You have committed some mistakes; my be the Prime Minister is not a party to that mistake. I want to ask a question. This is not a direct question to the Prime Minister. If he kindly responds, I will welcome it. I want to ask a question about the Jamait-e-Islam..... (Interruptions)\*

MR. CHAIRMAN : This is not at all relevant. All this does not go on record.

[Translation]

SHRI JANAK RAJ GUPTA : Mr. Chairman, Sir, were Farooq Abdullah's National Conference and Jamait-e-Islami not supporting each other during the 1983 Assembly elections ?

(Interruptions)

[English]

MR. CHAIRMAN : It is not relevant. Shri Shyam Lal Yadav.

PROF. SAIFUDDIN SOZ : He does not know what is a point of order. He could seek a clarification from me... (Interruptions)\*

MR. CHAIRMAN : That will not go on record. Please resume your seat. (Interruptions) Don't waste your energy. This will not go on record. I have called another member and he started speaking also. Please resume your seat.

[Translation]

SHRI SHYAM LAL YADAV (Varanasi) : Mr. Chairman, Sir, the points raised by Prof. Soz, I think, are not at all relevant to this Bill and he wanted to unnecessarily drag extraneous issues in it. I want to tell him to put forth his points... (Interruptions)... Sir, he has himself admitted that the situation in the country today is extremely terrible. It is very horrible and explosive. Most of the hon. Members have also said so. All the hon. Members agree to what he has said. This Bill does not extend to Jammu and Kashmir, there is no provision for it. Therefore, I think, Prof. Soz should not have referred to those things. Although, some of the hon. Members said, as he himself admitted, that these terrorist and destructive forces which were raising their head in Jammu valley too were required to be crushed. They have no objection if this Bill is enforced there to crush them. But there are some restrictions in our constitution under Article 370 and, perhaps, it is because of that that there is no proposal to extend this Bill to Kashmir valley.

16.30 hrs.

[MR. SPEAKER in the Chair]

I do not want to divert your attention to those things, but I would certainly like to

[Shri Shyam Lal Yadav]

say that the situation through which the country is passing today, the way the disorder and unrest are being spread in the country, the way the terrorist and destructive forces are raising their ugly heads, it is a challenge for us. It requires extraordinary steps to counter this challenge and what could these extraordinary steps be? These can be in the form of enforcing such laws so as to create conditions which may be conducive to liquidating these terrorists.

In the post independence era, terrorism has been raising its head in various parts of the country. In the north-east, such incidents have become a matter of daily occurrence during the last 20 or 25 years and sometimes these forces get support from outside the country. These elements have been crossing over to the other side of the borders and then re-entering the country frequently. Many pieces of legislation were enacted to counter them but they could not be effectively countered. The poisonous atmosphere which has been created today in Punjab and around Delhi is a strange happening in the history of the country, and the entire nation is perturbed over it and is eager to suppress it. The whole country is looking towards the Prime Minister, Shri Rajiv Gandhi, hopefully and that is why, as you have seen, the people of the country gave him unprecedented support during the last Lok Sabha polls and the people are still hopeful. The Prime Minister took some new steps during the last few months to solve the Punjab problem but these steps did not yield any results. On the contrary, these steps had an adverse effect. The most painful part, which no Indian can support, was the glorification the assassins of Smt. Indira Gandhi by some people of Punjab, who considered themselves to be the representatives of a particular religion, and the leaders of a particular political party. This act of theirs deserves severe condemnation and is the most disgraceful and all the citizens of the country have to hang their heads down in shame. The people of this country can never pardon such people. I also want to submit that such persons of such a party cannot be tolerated by any Government. In whatever form they may come up, they will have to be crushed. In this pursuit, we shall have to fight and struggle, for however long the struggle may last, it may last for some time more, but such people cannot

be tolerated. If a common man commits a murder, he is punished for his offence, but he is not glorified like this. This is a strange incident of its kind in the democracy of this country, which has seldom happened elsewhere in the world.

Countries like England which attained independence earlier than we have also been facing political movements all along. 12 people died there in the jails while on fast, but that Government did not yield. When the first person died while on fast, the Members of the House of Lords expressed condolence but when 12 persons died, nobody bothered about that. There is a democratic Government which did not allow the Irish Revolutionary Army to raise their head. In the same way, the Akali Dal which came into being in the name of religion in a Gurudwara and which propagates religion-based politics, which derives its strength from religion, which adopts the path of violence, should at no cost be accepted. The history of Europe is replete with such instances the history of the medieval age is replete with such instances. Politics based on religion, a political party which brings religion into politics, is unfortunate for any country. No talks can be held with the Akali Dal. You hold talks with one Akali Dal today, name them moderates, but tomorrow they are ousted. Thereafter, the extremists again come to the forefront. This has happened a number of times. You know how Punjab was created. The existing Punjab was created through the threats of self-immolation. But was peace restored there? Punjab was created and now they are not confined to religious demands, they are raising political demands, the demand for sharing waters, the demand for Chandigarh and many other demands which are not even remotely connected with religion. The Sikhs are our leading citizens, first class citizens and they are ahead of others in whatever field they are, whether in trade, employment, services, or in the matter of wealth and property. But, how is it that the Sikhs who have settled abroad, who have no concern with India, who are Sikhs only for name sake and many of whose customs are also different, want to create disturbance in our country? They pose as well-wishes of India which, in fact, they are not. Therefore, I want to say in all humility through you, to Government as well as to the hon. Members of this House that you

will not achieve any result by adopting a lenient attitude towards them. The more the concessions you give them, the more will they misuse them. All that has happened during the last two months is an ample proof of this. They were released from jails and the cases against them were withdrawn from the courts and all sorts of facilities were given to them, but what has been the result? One leader of the Akali Dal has withdrawn from the scene after submitting his resignation and another man is trying to have control over it and he is resorting to massacre. He says that carrying arms inside the Gurudwaras is their right. This we cannot accept. Arms were recovered from the Gurudwara when laid was conducted for the first time. A huge quantity of sophisticated weapons was recovered. You know that a leader of the opposition had gone there and after visiting the Gurudwara, he had given a statement that no such arms were there. The same situation cannot be allowed to develop there and you will have to take firm action and the whole nation expects you to deal with it sternly, so that these forces do not emerge there again and we may not have to take recourse to yet another 'Operation Blue star' to restore peace there.

There are many clauses of this Bill and I do not want to go into them. All that I want to say is that the responsibility of enforcement of this law will entirely be that of the police. After all, you are giving them so much of powers and we all know how efficient the police personnel are. Shri Chavan being in power can say that the police personnel are efficient, but, we all have experience of it, being out of power we have experience of it. The question is whether the police personnel are efficient to shoulder such a big responsibility or not. We do not want to say that the entire police force is unreliable, but we have to see what the police personnel are doing in Punjab and Delhi. Have they been able to apprehend even a single offender? An argument was advanced that if the post of Inspector General was up graded to that of a Police Commissioner in Delhi, crimes would vanish and law and order would be restored. And the Police Commissioner was appointed. He has all the powers of a magistrate in addition to the usual powers of the police officer. But still, such incidents have taken place here and the Police Commissioner has not been able to

check them, the entire police force has failed to stop them. There is no dearth of powers. If anything is found wanting, it is the efficiency of the employees, their training and guidance. If there is anything found wanting in them, it is the sense of patriotism, the sense of morality and the sense of dedication to the country. The provisions made in this Bill are all right. The provision made in this Bill is a departure from the existing Criminal Procedure Code and the Evidence Act, the procedure according to which the courts commonly function in our country and the type of evidence that is produced before them. It may make the process easy and workable and we welcome it with the hope that the police and other law enforcing agencies in the country will work properly. These agencies are under the State Governments and in many states, there are Governments of the opposition parties also. We hope that under this law, the police in the States will appear the criminal elements, the terrorist and destructive elements, will identify them and prosecute them so as to provide relief to the people, only then, the objective of this Bill will be achieved. They will get full support from all of us as also from all the countrymen in this endeavour. If the law enforcing agencies enforce it properly, the people of the country in and outside Parliament will welcome such a law and I am confident that after the enactment of this legislation, the Home Minister will be left with no excuse. At the same time, he should see that the elements which show slackness in the enforcement of this law are properly dealt with.

With these words, I support this Bill.

[English]

SHRI P. CHIDAMBARAM (Sivaganga) : Mr. Speaker, I rise to support this Bill. We are living in dangerous times. A crisis of this nature does not encounter a country every time or every year, but ever since the end of last year and the first four and a half months of this year we have moved from crisis to crisis. My learned friend Prof. Swell described the situation as an extraordinary situation requiring extraordinary powers. I wish to go further. The situation is so extraordinary that it requires extraordinary wisdom on our Part. May I appeal to my friends from the other side that it requires extraordinary bilateralism, extraordinary

[Shri P. Chidambaram]

cooperation, extraordinary show of unity, extraordinary courage and extraordinary will and decisiveness if we are to get over the crisis we are facing today ?

PROF. MADHU DANDAVATE : Do not confuse unilateralism will and bilateralism.

SHRI P. CHIDAMBARAM : I said 'bilateralism'.

I only wish my learned friends Mr. Amal Datta and Mrs. Mukherjee who spoke today had gone back to their constituencies after receiving a copy of this Bill and they have met their people before they have made their speeches in this House. Mr. Amal Datta said that it should be referred to a select committee. Mrs. Mukherjee said that it should be referred to elicit public opinion. Both of them forgot the importance of the people. I was in my constituency yesterday, and my constituency is 350 miles away from Madras. A Pall of gloom has descended over the people of this country, since 10th May 1985 and especially since there have been threats about the plot to kill the Prime Minister. People live in apprehension, because they do not know what to do, they do not know what to think, they do not know what will happen. And my friends Mr. Amal Datta and Mrs. Mukherjee are blissfully unaware of Article 20 of the Constitution. Article 20 of the Constitution— which I am sure Mrs. Mukherjee must have seen on another occasion, says :

"No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might be inflicted under the law in force at the time of the commission of the offence."

Every single minute we delay, if a terrorist activity takes place this morning, this moment, it cannot be dealt with or finished, unless we pass this law.

SHRIMATI GEETA MUKHERJEE : They can be dealt with under the existing laws.

SHRI P. CHIDAMBARAM : How can we wait while hundreds have been killed in Punjab, while hundreds have been killed all

over the country, and while hundreds were killed in Delhi ? Every minute you delay, every moment you delay, will be dangerous. And if you do not pass the law, the public opinion or the people outside will blame Parliament.

SHRI NARAYAN CHOUBEY : You are childlike you are talking like a child !  
(Interruptions)

SHRI P. CHIDAMBARAM : I think we should pass this law with great expedition. Mr. Swell said this regarding this law that the people have said this. (Interruptions) My friends of the other side have said that this law will curb political activity. I am amazed. Kindly read the Clause 3. Is there any Section corresponding to Clause 3 of the Bill, either in the Indian Penal code or in the Criminal Procedure Code ? Clause 3 of the Bill says :

"Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substance or inflammable substances or..."

and so on.

To deal with such acts, it requires a particular law. And it requires a particular result likely to cause death or injury to a person or damage to property. I sincerely hope that when you feel that this Act will be directed against you, you are not confessing that you will intend to overthrow the Government; I hope you are not confessing that you will do acts by using bombs dynamite or other explosive substances; I hope you are not confessing that you will cause death or injury to persons or damage to property.

This Bill creates two new offences. I think, we should go back to 1963. In 1963 this Parliament passed the Sixteenth Amendment to the Constitution. It amended Article 19(2), (3), (4) and added sovereignty and integrity of the country. This law is intended to protect the sovereignty and integrity of the country. If in 1963 this Parliament could unanimously pass the Sixteenth Amendment to the Constitution, I think, this Parliament should unanimously

pass this law also. We started this session by unanimously passing the Anti-Defection Act. That was to save the integrity of the political system in the country. I think, we should conclude this session by unanimously passing this law, which will save the integrity of this nation. The word should go out to the people that Parliament is vigilant, aware of terrorism, that terrorism has no face, terrorism has no cause except to cause terror. Terrorism, if I borrow the phrase from Shakespeare, is motiveless malignity. Terrorism has no place in a civilised society. If we want to strike at terrorism, we should strike at it today, now and at this moment.

About clause 18 there has been criticism. Please look at Article 258(2). This is a law made by Parliament. This is the law falling within Item I of the Concurrent List, Seventh Schedule. Parliament is fully competent to confer power only on the Central Government. But Parliament has chosen to confer power upon the State Government. I agree with Prof. Dandavate that clause 18 is cumbersome but I totally disagree with him that it is irksome. I think, this clause should be carefully worded to mean that both the Central Government and the State Government can concurrently exercise jurisdiction. If the State Government refuses to appoint a designated court, the Central Government should step in. In fact, clause 18, as it stands may give rise to all kinds of legal quibblings. I am sure the Law Minister will take note of it and arm the Central Government with power when the State Government is recalcitrant. As we go from here to our constituencies, we should go back and tell the people that we have not only saved the political system of the country but we have saved the policy of the country and we will save the integrity of the country and we will save the sovereignty of the country. We will still every voice which is disruptive. We will strike at every hand who is a terrorist. We will protect the sovereignty and integrity of our country for all times to come.

**SHRIMATI VYJAYANTHIMALA BALI** (Madras South) : Mr. Speaker, Sir, I thank you very much for giving me this opportunity to speak on this Bill which I wholeheartedly welcome. Before that I would like to tell the Hon. Members of the House that I am not here to terrorise people, but to talk on

terrorism. That is what I heard somebody saying.

Sir, I would like first to say that some of our hon. Members of the Opposition are just trying to play with words by trying to bring in amendments by just dropping of comma or putting a full stop or for removing a question mark on flimsy reasons. Much more than that an hon. Member has said that the States are completely responsible to see that law and order looked after or taken care of without the concurrence of the Centre, but I honestly and frankly can say that without the concurrence of the Centre, of our Government, I do not think any State can function or properly hold back the law and order because things will definitely go out of their hands and they will not be able to control them unless the Centre intervenes. It is because of the State Government's requesting the Centre that the Centre has to intervene to prevent the things going out of hand.

I do agree with certain hon. Members that films have a great influence on violence and terrorism and crimes and they say that they are showing this because this is what is happening in reality. We see so much of terrorism, crime and violence and that it is spreading its ugly heads and ugly tentacles all over our country. So, the film industry, the film people, say that they are only showing what is being done in reality. Therefore, what is being done in reality has got to be curbed. This Bill is being brought forward to prevent terrorists and disruptive activity. I am sure this Bill can also bring a lot of changes in the films or videos as far as violence and crime and other ugly things are concerned.

[Translation]

**SHRI NARAYAN CHOUBEY** : Enforce his law on the film industry... (Interruptions)

[English]

**SHRIMATI VYJAYANTHIMALA BALI** : Surely we will do it.

[Translation]

**SHRI NARAYAN CHOUBEY** : Let violence be stopped in the films... (Interruptions)

[English]

SHRIMATI VYJAYANTHIMALA BALI :  
Sir, it is true our young people are greatly influenced by seeing terror and horror in the films. It is a bad thing.

(Interruptions)

I do not want to be disturbed. I want to speak only for a few moments unlike the hon. Members who spoke for half an hour.

I just want to say that the youth of our country are being misled because they see lot of violence and terrorism in our films. And why do these things crop up. They crop up because in real life there is so much of terrorism and lawlessness in our country. With the help of this Bill, I hope we will be able to bring about better atmosphere and law and order. This Act will come with a heavy, stern and firm hand to rid the country of this menace. Therefore, this Bill is very necessary.

Here I would also like to say that as much as the Bill makes provisions to combat and defeat terrorism, I feel this Bill will also apply on the medium of films through the high-powered censorship to curb violence and crime and terrorism that is shown in the films. I would like to say here that the network of terrorism is creating panic in the minds of our people. Why should our people live in fear add in panic in our country? Are we prisoners in our own country? I would like to say that the cruel tentacles of terrorism is spreading slowly but surely in the country and it has been a well-planned execution, That has to be put down with severe and heavy hand. Unless the Government looks after and takes care of our people, I would ask who else can? Unless the centre sees to it that the states take firm and stern measures to crush terrorism and crime, how can there be peace and stability in such a peace-loving country like ours? Here I feel that the Bill was long overdue. It is time that the Government made up for the loss of innocent lives and take necessary measures as not to further spread the panic that has arisen. By bringing in this Bill the Government has justified that terrorism has no place in our country. In a peace-loving country like ours our Prime Minister has repeatedly said that terrorism cannot be tolerated. This Bill will prove and make his words a reality.

SHRI PIYUS TIRAKY (Alipurduar) :  
Sir, nobody in this country or in the world support terrorists or terrorism or disruption or disruptive elements. But all the same I should like to say that at this time this Bill has come the House. It shows that the Government is incapable of dealing with these elements. It shows that the Government is incapable of dealing with disruptive elements.

16.56 hrs.

[SHRI VAKKOM PURUSHOTHAMAN  
in the Chair]

Ample powers are with the Government and the Government can easily control these elements. I fear that the Government itself is going to be terrorist to terrorise the common people because we have seen in the assassination of Mrs. Gandhi that it was only the Government employees who were responsible for it. So, the need of the hour is that the Government should undertake administrative reforms because there is something wrong with the administration of the Government itself. The Government have sometimes acknowledged many a crime and the Government also knows that some Government officials are with the terrorists. That has come to the knowledge of the Minister also. So, the Government should think over it and administrative reforms should be undertaken immediately. Otherwise there is no use of a number of laws, even more laws. Every day you can make a law in Parliament, but it will not help. But what we need just now is that the Government should introduce administrative reforms. There are ample laws in this country to deal with terrorism. So, there is no need for this law again which is going to be a heavy burden on the Administration. I think this law will not be helpful if the Government is not capable enough to deal with terrorists and terrorism or disruption. So, I oppose this Bill because there is no need for it now.

[Translation]

SHRI RAM PRAKASH (Ambala) : Mr. Chairman, Sir, I thank the Parliamentary Affairs Minister who has brought this Bill before the House at such a crucial time. This Bill will be passed unanimously. After it has been passed, the police will definitely come into the picture for its implementation

and about the police, you can very well understand the position. During the last three to four years, a number of murders, dacoities, bank robberies and other crimes have been committed in Punjab but I am sorry to say that the Punjab police have proved so incompetent that we do not find a parallel in any other State of the country. About Haryana, I shall talk later on.

Mr. Chairman, Sir, the police do have information about all the murders and dacoities committed by the extremists, dacoits and others. Without the knowledge of the police, no dacoity can be committed, no innocent person can be murdered and no leader can be killed. It is the police which provide all information to them. I belong to a rural area and these is a saying in the villages that when the protector themselves become the destroyers who can come to their rescue ?

17.00 hrs.

Where the police get the innocent people killed what will be the fate of such an administration ? It would request the Home Minister that if you really want to get this proposed law implemented, then replace the Punjab Police with the Haryana, Assam and U.P. Police Force. If you want to bring peace in the Punjab in one week, hand over the State to Shri Bhajan Lal. He can set things right in one week. He is a terror to all the terrorists and extremists. If an extremist from Punjab wants to commit a murder in Delhi, he cannot cross Haryana because Shri Bhajan Lal is the Chief Minister of that State.

The terrorists have now become so courageous that they hatch a plot in the USA to kill a Prime Minister or the Chief Minister of a State in our country. What are our Government, the Law Minister and the Home Minister doing ? I do not believe that our Government are not aware of this. Today, our Government talk of discussing the problem with them. What shall we discuss with them ? Just three or four days back a meeting of the extremists was held which was presided over by the extremists leader, Bhindranwale's father, Baba Joginder Singh. He is talking in the same language in which Bhindranwale used to talk.

You released Sant Longowal and other Akali leaders, but one moment they came

out of the jails, the process of killings started again in the Punjab. The people got frightened. Where should they go ? It is true that this Bill will be passed, but it is required to be implemented properly.

I want to say something about the police force. If the Government cannot replace them, then a committee should be formed to keep a check on them which should make proper entries in their history sheets and confidential reports. Whosoever does not work properly, should be removed immediately. There should be no difficulty in that.

The Members Parliament should also have a sense of responsibility. I appeal to all of them that there is no need to fear from any dangerous man or extremist. I am speaking against them. There is need to be afraid of them. If the Members of Parliament of the country discharge their responsibility, I think peace will down on this country very soon and no extremist will have the courage to do a wrong thing.

SHRI C. JANGA REDDY (Hanamkonda) : Mr. Chairman, Sir, there are many States in our country. In Punjab, the terrorists and extremists have been indulging in different kinds of terrorist activities. In Amritsar and in other parts of the country, such incidents have occurred. Some days back, Smt. Indira Gandhi was assassinated and recently there were bomb blasts in Delhi. The Central Government got scared of these incidents and have brought this new law.

I want to remind them that the extremists are there in Andhra Pradesh and Madhya Pradesh too. The children there still fear the name of Man Singh and Phoolan Devi. In Orissa, Madhya Pradesh, Maharashtra, Andhra Pradesh etc., different types of extremists have been frightening the people with their activities. What can be expected of those who are themselves afraid of Phoolan Devi and Man Singh and welcome the thieves

(Interruptions)

You are enacting this law keeping in view the Punjab terrorists. You may be knowing that the terrorists are there in Andhra Pradesh also. In many districts of that State, these extremists threaten the people. At the time of elections, these

[Shri C. Janga Reddy]

extremists fight elections but the people oppose them, defeat them. Then they terrify the people and gain a foothold. We have the C.R.P., the State Police and also many laws like MISA, NSA and the Indian Penal Code, but in spite of all this, the people are scared of the extremists and Naxalites. The reason is that our police have no guts and the Governments intentions are not *bona fide*. Government merely want to enact laws but they are reluctant to implement them.

Go and see the situation in Andhra Pradesh. Someone had killed a policeman. Therefore, the policeman burnt down a press. Why? Because, the law enforcing machinery itself is afraid of the extremists and Naxalites. Their, what will be the use of enacting such a law? Therefore, what I feel is that just as a person who is repeatedly given injections, becomes immune to that medicine after some time and that medicine does not work on him, similarly, as we go on making many laws, society is also becoming immune to them and those laws are proving ineffective.

If an important person, after four marriages, marries for the fifth time, what is the use of that? Similarly, we may give any amount of powers to the Government, but if they are unable to implement them. What is the use of that? If Government are incapable and the police are incapable, then what is the purpose of enacting the law? This only brings a bad name to Parliament. Therefore, Government should work with *bona fide* intentions. Unless the police face the extremists determinedly, it is no use making laws.

SHRI BANWARI LAL PUROHIT (Nagpur): Mr. Chairman, Sir, I rise to support the Bill. Some 5 to 7 days back when Delhi and other places were rcked by bomb blasts and hundreds of innocent people were killed, the Punjab problem was discussed in this House. At that time we had heard the Opposition Members. Today also since morning we have been listening to them. After hearing them it is clear that the language used today is totally different from that used on that day. It appears that the Opposition Members had committed a mistake. On that day they had come immediately after reading that day's news and it

looked as if they fully supported the Central Government. At that time, the Opposition leaders had urged the Prime Minister to do something and to take some strong steps in this regard and had expressed their readiness to extend their full cooperation. But what has happened to them today? Today, when the Bill for prevention of terrorism has been brought, the same Opposition leaders have started speaking in terms of its and huts. Why have its and huts come in the way today? Why are they afraid of it? Do they have apprehensions that this Bill may not be used for curbing political activities? There is no reason for such apprehensions. The object of this Bill is that it will be used against the terrorists in any part of the country. There is no other object behind it. C.P.I. (M) people might have apprehensions that they might not be able to get donations at knife point on the eve of the Pooja Festival. They might be afraid of it... (*Interruptions*) We all know it. The people from Calcutta come and tell us all these things. What is the situation in Punjab today? Go, and see it there. It is no use your having any apprehensions. They should not have any fear on this account. This Bill should be passed unanimously. It is a very commendable Bill for preventing terrorism. Disturbances can take place everywhere. The issue does not relate to Punjab only. Attention should also be paid towards widespread violence resorted to by the Naxalites in Chandrapur area of Vidarbha in Maharashtra. The activities of these people will have to be curbed through the provisions of this Bill. After warning the teachers, those people cut their hands. Through this Bill, the terrorists should be supported wherever they may be. We should pass this Bill unanimously and the Government are requested to implement it strictly. Besides, strict vigilance should be kept at our borders in order to prevent the terrorists entering our country after receiving training from other countries. Attention should be paid to this also.

I fully agree with what has been said by some of the Opposition Members as well as by the Members of our Party that there is no need to exclude Jammu and Kashmir from the purview of this Bill. In case there is any constitutional hurdle, our House is sovereign and has got full powers to remove that hurdle. I would like to say that the

activities of the terrorists in Jammu and Kashmir also should be strictly curbed. Jammu and Kashmir should also be brought under the purview of this law.

So far as the period of two years is concerned, an hon. Member has said that it should be reduced to one year. But I would like to submit to the hon. Law Minister that keeping in view these violent activities during the last two years, a provision should be made in this Bill for giving it retrospective effect so that the people who committed murders during the last two years may also be awarded punishment... (*Interruptions*) There is nothing to laugh at it. Had this Bill been brought two years ago, our *Rashtramata* Indira Gandhi and thousands of other innocent people would not have been murdered. I would like to submit to the Law Minister that this Bill may be given retrospective effect by covering the period of the last two years also, so that the people who have gone underground after committing murders and other crimes during the last two years could also be apprehended.

[English]

MR. CHAIRMAN : The Minister.

SHRI A. K. SEN : Mr. Chairman, Sir, may I express the gratitude of the Government.

[Translation]

SHRI P. NAMGYAL (Ladakh) : What is this ? I should also get time to speak. My name is placed at the end and then deleted.

[English]

SHRI A. K. SEN : Let him speak for a few minutes. He comes from a terrorist-stricken State.

MR. CHAIRMAN : All right. Mr. Namgyal. You will speak for two minutes only.

[Translation]

SHRI P. NAMGYAL (Ladakh) : Mr. Chairman, Sir, I am grateful to you for giving me some time to speak. I would like to say a few things in support of this Bill.

Firstly, Jammu and Kashmir has been kept out of the purview of this Bill. It may be due to Article 370 or clause 18 under which some scope has been kept for direct intervention by the centre. Whatever be the case I would like to say that the provisions of this Bill should apply to Jammu and Kashmir also. People say that Article 370 is very useful for the Jammu and Kashmir State. I do not know whether it is useful or not, but I have seen that the people of Jammu and Ladakh are not getting any benefit from it. These are my personal views. If it is not possible to implement it there at present, the State Government should be asked to promulgate an ordinance immediately in order to implement its provisions there also. Otherwise, the result would be that after this law comes into force, in the rest of the country except Jammu and Kashmir, the terrorists will make Jammu and Kashmir their centre of activity, as has been happening in the past.

You might recall that at the time the 'Operation Bluestar' in Darbar Sahib in June 1984, most of the terrorists had taken shelter in Jammu and Kashmir. My friend Mr. Soz has left after making his speech. He did not speak carefully about Article 370 or about the application of this Bill to Jammu and Kashmir. At that time, the terrorists got training and shelter in Jammu and Kashmir. I would, therefore, like to say that such things should not be allowed to be repeated in future. Arms are flowing into the Punjab from Pakistan via Jammu and Kashmir. At the time of Farooq Abdullah's regime the then D. C. of Poonch had issued 2500 arms licences to the people and all of them had reached the hands of the extremists and terrorists. I, therefore, want that this law should be made applicable to Jammu and Kashmir also.

In so far as clause 18 is concerned I feel that it should remain there. Many of our colleagues have also said so. The former Government of Jammu and Kashmir (I am not talking about the present Government) did not implement the central laws there. I, therefore, feel that clause 18 must remain, so that if the regional parties like the National Conference (Farooq Group) in Jammu and Kashmir do not ensure proper implementation, then the Acts could be implemented there through the centre.

Clause 4 of this Bill contains many provisions regarding tape-recording etc. I

[Shri P. Namgyal]

am of the view that hijacking should also be included in it. However a law is there in this regard. Many laws have been enacted already for the remaining matters, but I think that hijacking should be included in this clause also.

With these few words, I thank you for giving me time to speak. In the end, I would again request the Law Minister that this law should be made applicable to Jammu and Kashmir also. At the time of 'Operation Bluestar' many extremists and terrorists had taken shelter in Ladakh. These things should be looked into. A large number of arms and ammunition have been found missing from the armoury of the army in Ladakh. Investigations are going on. Some people have been arrested also. These people are very active. I would, therefore, request again that this law should be made applicable to Jammu and Kashmir also.

With these words, I support this Bill.

**SHRI RAMASHRAY PRASAD SINGH :** Mr. Chairman, Sir, the problems in our area are not less as compared to those in Punjab. I, therefore, request you to give me two members time to speak.

[English]

**MR. CHAIRMAN :** No, you are not called. Please resume your seat.

[Translation]

**SHRI KALI PRASAD PANDEY :** Mr. Chairman, Sir, I rise on a point of order. The Law Minister was asked to reply. The Chair had directed the Law Minister to reply. Then, under what circumstances was the hon. Member given time to speak? The Law Minister was not authorised to give time when the Chair had already directed him to reply? How was the hon. Member given time? The hon. Member wanted to highlight the problems of Bihar. (Interruptions).

[English]

**MR. CHAIRMAN :** There is no point of order.

[Translation]

**SHRI KALI PRASAD PANDEY :** Mr. Chairman, Sir, the Independent Member was

not given time despite the request made by him four times.

[English]

**MR. CHAIRMAN :** Representatives of the Independent Members are also called. When your name was called you were not here.

[Translation]

**SHRI KALI PRASAD PANDEY :** Is the Winning of the election by an Independent Member and before coming to the House a crime? I, therefore, walk out from this House.

17.22 hrs.

(Shri Kali Prasad Pandey, then left the House).

[English]

**THE MINISTER OF LAW AND JUSTICE (SHRI A. K. SEN) :** Mr. Chairman, Sir, I must express the gratitude of the Government and myself in particular for the support which has come from all sides of the House for this important measure.

Apart from the details on which naturally views may differ the core of the measure has found unanimous support from all sections of the House. (Interruptions)

That is my view. If words convey anything that was the view which has been communicated. I have no doubt about it. I shall now try to deal with some of the matters on which the hon. Members, particularly on the other side, have expressed their views.

The first point raised was about the extension of the Act to the whole of India and not to Jammu and Kashmir excepting for certain provisions concerning disruptive acts. The reason is very clear. The old members will remember that we have debated the question of Article 370 for a long time. The subject pertains to the exclusive jurisdiction of the Kashmir legislature. Under Article 370 we can only extend the provision of this Act after concurrence of the Kashmir government is obtained by the President. Then it is included and

that is intended to be done after this Act is passed.

The next question is about limiting the period of this measure to only two years from the date of its commencement. The reason is very clear. Neither this House nor the government want to govern the country with extra-ordinary powers unless it is absolutely necessary and unless it has to be done for beyond a particular limited period. Normally extra-ordinary powers are conferred only to meet a limited emergency and a limited crisis and no democracy is worth its name if it seeks powers permanently to govern the people with such extra-ordinary powers. We do not want to imitate our neighbours in this matter. On the contrary let the rest of the world imitate us that this country has faced crisis after crisis through the instrumentalities of democratic Constitution and with the universal consent of all the Members present here voicing the people's views on matters of urgent national importance. It is of great consequence and a matter of pride that whenever this House has faced grave emergency, national crisis, where this nation must speak with one voice, this House has not been found wanting. That is why the entire country owes a deep debt of gratitude for our Parliament which has functioned from 1950 onwards until today. So many crises have been overcome. We have differed on many matters of domestic interest. But on matters of foreign policy, on matters of security of the State, on matters of national integrity and independence and unity we have never differed. And I have no doubt that we shall never differ because our dedication is to that common cause. The way to reach that common cause may be different but the goal is the same for all of us; to build up that economy, that society, that country, where every man will smile, where every tear will be wiped out, and where a socialist egalitarian policy will ultimately underline every facet of national activity. That is the mandate of our Directive Principles and we cannot reach it unless all the fissiparous tendencies, all the divisive forces, all the acts of terrorism all the mad acts of assassins are curbed. They should not only be curbed, but they should be found out and detected and their very seats wiped out. I entirely agree with those who have said that law alone will not deal with the enemy. Nobody has ever claimed it. After all, law

will be exactly what the people feel, what the Government feel, as the remedy for certain rights and obligations. This law is meant only to enforce the obligations of the ordinary citizen—not to take to arms to establish his own right but he must obey the law of the country. He must not violate the supreme mandate of the constitution, of the integrity and unity of the country and he must not violate the laws passed by free legislatures whether it is in the Centre or in the States. Nobody has the right here or in any democracy to take the law into his own hands for whatever purpose he may think fit. So far as terrorists are concerned we do not know what they think excepting what they do.....

PROF. MADHU DANDAVATE : They don't think at all !

SHRI A. K. SEN : It is said by Tennyson : Words, empty words, I do not know what they mean : Words of the depth; often divine despair. But even then he said, they don't mean anything. These mad acts mean nothing excepting.

SHRI NARAYAN CHOUBEY : They mean many things...

SHRI A. K. SEN : They don't mean anything excepting that those who take recourse to these mad acts forget their duties as citizens. Because, this country has given equal right to every citizen. Who are these people who think that they are deprived of their rights ? Who are the people who take to arms is Nagaland, or in Manipur, or in Tripura, or in farflung areas of Punjab or other areas ? How have they come to know that they are deprived of anything ? Every citizen in this country has got equal rights. Take for instance Punjab. They have prospered the most after partition. We had a truncated Punjab and a truncated Bengal. The Punjab has prospered very much more than the rest of the country. Today their standard of living is the highest there; their per capita income is the highest there, in India. And the Sikhs were part of us in history, in politics...

SHRI NARAYAN CHOUBEY : They are.

SHRI A. K. SEN : Please wait until I finish. The Sikhs were always a part of us in history, in politics, in society; and they will

[Shri A. K. Sen]

always remain a part of us until eternity. That is the very blood of our blood, the very flesh of our flesh. I think there was an occasion when I first quoted one of the memorable poems of Tagore on Sikh genesis as to how in our childhood days during the struggle for freedom we were enthused into acts of bravery by the Sant Guru Gobind Singh, Shivaji, Rana Pratap and others and in one of the poems which enthused always was about the martyrdom of Banda who was captured in the fort of Gurdaspur by the forces of Farooq Sagar Shah, brought him in captivity, in chains to Delhi and he was made to kill by his own son. That was the sentence passed by him and he whispered in the ears of his son "No fear, my darling boy, sing in praise of the Guru by Vaha Guruji ki jai" and then died. It has become a part of Indian history. When the blood of the Sikhs flowed on the plains of Khem Karan or Ladakh or on the heights of Arunachal Pradesh in Sela Pass and other places along with the bloods of other jawans, did they feel different or did they look different? The men came together and softened the earth where they were spilled and made the earth safer? Then Baghat Singh came and through his gesture he died for this country. He became martyr of this country. Did anybody question whether he was a Sikh or a Hindu? Well, all of us go to Sikh temples, always that is, Gurudwaras. I used to go regularly in olden days to Banglasahib Gurudwara near my house. Whenever I went to Amritsar, I never lost a chance in visiting the Golden Temple and offering my worship. I never felt that I have not gone to a Hindu temple in Punjab. In Delhi, we never felt that we were strangers in a Gurudwara.

17.32 hrs.

[MR. SPEAKER *in the Chair*]

The 'Grandh Sahib' recites pages after pages the great victories of Indian civilisation of the great men of Indian mythology from Ram to Krishna and everyone else. Those who swear in the name of 'Grandh Sahib' can never act like the one which has been perpetrated in recent times and I think I remember that one day I was having a long talk our former Speaker Sardar Hukam Singh about some of the events that happened, that is, before the assassination of Shrimati

Indira Gandhi. He said "You know Mr. Sen, we are brought up with this great doctrine of universal love and or otherhood, that is Sikhism and because of that the Sikhism had really started the whole renaissance of India by making India awake to the realities of our past and to face the threat from wherever it came". These brave Sikhs are part of us and always be a part of us. I refute the suggestion that this act, that this measure has been brought against the Sikhs. It has never been brought against the Sikhs. It has been brought against the terrorists wherever they are—in NEFA, from Nagaland in the East, Mizoram in the South-East right upto Kashmir in the North and Punjab in the West, wherever the assassin's hand will be raised to strike at our very foundations, we shall strike at them. That is the philosophy of this measure and that is the voice of the people and that is the expression of this House from all sections. That is why I make bold to say that it has the unanimous support from all sections of this House apart from individual sections here and there. Therefore, let this House say without any equivocation that this country is prepared to root out terrorism and not merely by law but by finding out the causes which preach terrorism. That is very important.

As you know, the Prime Minister has declared time and again what measures he was prepared to take, how far he was prepared to go and how flexible he was in all these matters to find out how best to tackle this problem. As the Home Minister has said, that offer will never be withdrawn and that effort to find out the real cause of terrorism, to tackle it at the source would never be given up.

Now, let us come to the relevant provisions of the Act. They have all been found acceptable. Prof. Dandavate had raised two points. First of all, there is the question of exercise of powers under clause 7(1) by the Central Government. Clause 7(1) is a power which is only for setting up designated courts with the concurrence of the State High Courts. Even if the Central Government exercises that power, they will have to do it with the concurrence of the State High Courts. There is no question of bypassing the State Government..... (Interruptions). The State Government may not act, therefore, we have to act. I do not

say that the State Governments will not act, they may act, therefore, we have to act. Therefore, I am prepared to put this amendment as a Government amendment, namely, by adding the Words 'may after consultation with the State Government be exercised. (Interruptions).

PROF. MADHU DANDAVATE : Are you referring to Clause 18(1) ?

SHRI A. K. SEN : Yes, Clause 18(1).

As the Home Minister explained, these acts are not confined to State boundaries, they transcend State boundaries and have an inter-State character.....(Interruptions)

PROF. MADHU DANDAVATE : I think, that is the second best. Concurrence would be the best, but you would not like the best.....(Interruptions).

SHRI AMAL DATTA : What difficulty do you have with 'concurrence' ? If the situation is such and the State Government does not agree, that Government will suffer...(Interruptions).

SHRI A. K. SEN : The country cannot suffer. Supposing a terrorist has committed an act in Delhi and has gone to Jammu and Kashmir and the Jammu and Kashmir Government does not set up a court. The only power is to set up a designated court with the concurrence of the State High Court, there is no other power.

SHRI AMAL DATTA : If the act has been committed in Delhi, trial will be in Delhi and not in Jammu and Kashmir.....(Interruptions).

SHRI A. K. SEN : It is no use arguing like this. This is what we are proposing to amend by saying that the Central Government may act.

I am taking more important clauses.

PROF. MADHU DANDAVATE : We accept that. Because if we do not accept that even concurrence will go and consultation would come.

SHRI A. K. SEN : As I said to the hon. Member, even Central Government has to act in concurrence with the State High Court. High Court is a must; it does not matter, we are prepared to amend it that way.....(Interruptions).

Prof. Dandavate, if you would be good enough to give a little attention to me.....

PROF. MADHU DANDAVATE : My one ear is for him and the second one is for you.

SHRI A. K. SEN : Like Dashanan, you have got ten ears. Prof. Dandavate, the next amendment that you sought was about banning songs and various other things used for incitement. The words proposed by Prof. Dandavate were these :

"Action taken whether by act or by speech or through any other media."

We are adding "or in any other manner whatsoever." And that will come on page 3, It will come in Section 4(2) and 4(3), the same amendment.

PROF. MADHU DANDAVATE : That means songs and verses, everything goes.

SHRI A. K. SEN : They will all be covered. I think Prof. Dandavate thought that it will look bad to the outside world that we are banning all songs and everything else.

MR. SPEAKER : As they have three-in-one ice-creams, this is all in one.

PROF. MADHU DANDAVATE : I tried to defend artistes. I thought Mrs. Vajayanthimala will support me.

SHRI A. K. SEN : So, Prof. Madhu Dandavate listens more to the film world than to me. He is nearer to the film world in Bombay.

THE MINISTER OF STEEL, MINES AND COAL (SHRI VASANT SATHE) : He is taking liberty because Mrs. Dandavate is not here.

MR. SPEAKER : You are the real culprit !

PROF. MADHU DANDAVATE : Mr. Speaker, this will mean, to defend my liberty, I have to lose my wife, Sir.

SHRI A. K. SEN : The next question is this. Somebody has stated—I forgot the name of the hon. member—that we have not given the abettor the same punishment as is given to the person who actually acts. We have given the same punishment. Section 109

[Shri A. K. Sen]

of the Penal Code still applies. But we have made a minimum punishment of death for that man who actually kills. We did not want to extend that minimum punishment to the abettor, though that punishment is still open for the Court to inflict under Section 109 of the Indian Penal Code, because the abettor's responsibility is the same as the person who actually commits the crime. The power of imposing death sentence is in the hands of the Court. The only thing is that it is not a minimum sentence imposed on this man. We do not want to make the measure more draconian than it is actually necessary. I think it is in the best of interests that we keep it there like this.

Shri C. P. N. Singh rightly stressed the question that we have not attended to the real crux of the matter to find out why terrorists are bred and why they should not be nipped in the bud. That is a problem which still confronts the Government. This is a matter which is extra-legal, but it is certainly a very valid point, borne in mind always, because we cannot rule with a law all the time punishing people. You got to see that every man realises that he is a proud citizen of this country, and an equal participant in the grand endeavour which is going on to make this country one of the finest in the world, to make everyone happy and prosperous and to put the little man on the saddle wherever he is. That is the goal. Therefore, that lesson must be taught everywhere, so that every time a child is born, by the time he starts speaking, his mother must put into his ear, the great *māṛta* of Indian Nation, so that he knows that he is the proud citizen of the proud country and that is the great cure for this malady which afflicts us today.

In the *Gita* it is said—*Janani Dharmem na chameva pravriti*—‘I know what is virtue, but I do not want to follow it.’ *Janemya-dharmam, na chameva nivriti*—‘I know what is vice, but I cannot resist taking to vice’. That is the terrorist. He know what is *dharma* and he knows what is *adherma*, but he does not know how to desist. We must train him in the art of resistance of evil. He must be redeemed from the path of evil, so that he knows that the path of rectitude is the only path which leads to glory and to happiness. And let therefore our future

endeavour be on that line. I do not want to take up more time of the House and I am extremely grateful for the support that has come and I am sure that this Bill will be passed unanimously.

MR. SPEAKER : Shrimati Geeta Mukherjee, are you pressing in your amendment ?

SHRIMATI GEETA MUKHERJEE : In view of the fact that this is not any more relevant, and since the Minister is not agreeing, I do not want to move it.

MR. SPEAKER : Is it the pleasure of the House that the amendment moved by Shrimati Geeta Mukherjee be withdrawn ?

HON. MEMBERS : Yes.

Amendment No. 1 was, by leave,  
withdrawn.

MR. SPEAKER : Mr. Basudeb Acharia, do you want to press your amendment ?

SHRI BASUDEB ACHARIA : Yes; I am not withdrawing it because I want that this should be discussed at length.

MR. SPEAKER : The question is :

That the Bill to make special provision for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be referred to a Select Committee consisting of 9 members, namely :

- (1) Prof. Madhu Dandavate
- (2) Shri Amal Datta
- (3) Shri Indrajit Gupta
- (4) Shri C. Madhav Reddi
- (5) Shri Amar Roypradhan
- (6) Shri Asoke Kumar Sen
- (7) Shri Piyus Tiraky
- (8) Shri K. P. Unnikrishnan; and
- (9) Shri Basudeb Acharia

with instructions to report by the first day of the next session.(2)

The motion was negatived.

MR. SPEAKER : Mr. Satyagopal Misra, are you pressing your amendment ?

SHRI SATYAGOPAL MISRA : Yes.

MR. SPEAKER : The question is :

That the Bill to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be referred to a Select Committee consisting of 12 members namely :

- (1) Shri Basudeb Acharia
- (2) Shri Anil Basu
- (3) Shri Ajoy Biswas
- (4) Shri Amal Datta
- (5) Shri Suresh Kurup
- (6) Shri Sanat Kumar Mandal
- (7) Shrimati Geeta Mukherjee
- (8) Shri Amar Roypradhan
- (9) Shri Ajit Kumar Saha
- (10) Shri Asoke Kumar Sen
- (11) Shri Zainal Abedin; and
- (12) Shri Satyagopal Misra

with instructions to report by the 1st day of the next session. (8)

**The Motion was negatived.**

MR. SPEAKER : The question is :

"That the Bill to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto, be taken into consideration."

**The Motion was adopted.**

**Clause 2—Definition**

SHRI AMAL DATTA : I beg to move :

Page 2,—

omit lines 15 and 16.(77)

MR. SPEAKER : You have already spoken. So, I put it to vote. The question is :

Page 2,—

omit lines 15 and 16. (77)

**The motion was negatived.**

MR. SPEAKER : The question is :

"That Clause 2 stand part of the Bill."

**The motion was adopted.**

**Clause 2 was added to the Bill.**

**Clause 3—Punishment for Terrorist Act**

MR. SPEAKER : Mr Swami Prasad Singh, are you moving ?

SHRI SWAMI PRASAD SINGH : No.

MR. SPEAKER : Mr. Mool Chand Daga, are you moving ?

SHRI MOOL CHAND DAGA : No.

MR. SPEAKER : Mr. Ratnam, are you moving your amendments ?

SHRI N. VENKATA RATNAM : Yes, Sir; I am moving all the three amendments.

I beg to move :

Page 2, line 37,—

after "intent to" insert "over-throw or"  
(18)

Page 2, line 37,—

after "Government" insert "at the Centre or States" (19)

Page 3, line 3,—

for "with death" substitute "under section 302 of Indian Penal Code;" (20)

MR. SPEAKER : Mr. Banatwalla, are you moving ?

SHRI G. M. BANATWALLA : Yes; I am moving Nos. 39 and 40. I beg to move :

Page 2, line 37,—

for "the Government as by law established"

substitute "the Parliament or Government of India or the Legislature or Government of any State" (39)

[Shri G. M. Banatwalla]

Page 3,—

after line 11, insert—

“Explanation—To constitute a conspiracy under this section, it is not necessary that an act or illegal omission shall take place in pursuance thereof.” (40)

SHRI R. P. DAS (Krishnagar) : I beg to move :

Page 3, line 5,—

for “to term of life” substitute—

“to a term of seven years” (61)

Page 3, line 7 and 8,—

omit “or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of,” (62)

Page 3, line 10,—

omit “but which any extend to term of life” (63)

SHRI AMAL DATTA (Harbour) : I beg to move :

Page 2, line 39,—

omit “any section of” (80)

Page 2, line 40,—

for “different sections of people”

substitute “people of different castes or religions” (81)

Page 2, line 42 and 43,—

omit “or any other substance (whether biological or otherwise) of a hazardous nature” (82)

SHRI SAIFUDDIN CHOWDHURY (Katwa) : I beg to move :

Page 3,—

for lines 1 to 6, substitute—

“(2) whoever commits a terrorist act shall be punishable under the provision of Indian penal code.” (95)

SHRI NARAYAN CHOUBEY (Midnapore) : I beg to move :

Page 2, line 38 to 40,—

omit “or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people.” (116)

Page 2, lines 45 and 46,—

omit “or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community.” (117)

Page 3, lines 8 and 9,—

omit “Or any act preparatory to a terrorist act” (118)

Page 3, line 10,—

for “life” substitute “six years” (119)

SHRI VIJOY KUMAR YADAV (Nalanda) : I beg to move :

Page 3, line 5,—

for “five years but which may extend to term of life” (131)

Substitute—“three years but which may extend to a term of seven years.”

Page 3, line 7,—

omit “advocates” (132)

Page 3, line 7,—

omit “advises” (133)

Page 3, line 10,—

for “term of life” substitute “seven years” (134)

SHRI D. B. PATIL (Kolaba) : I beg to move :

Page 2, line 37,—

omit “to overawe the Government as by law established or” (149)

Page 3,—

after line 3, insert—

“(ia) if such act has resulted in permanent disability of serious nature, be punishable with imprisonment for a term which shall not be less than ten years but which may extend to term of life and shall also be liable to fine.” (150)

Page 3,—

for lines 7 to 11, substitute—

“(3) whoever conspires or abets or incites or knowingly facilitates the commission of a terrorist act shall :

- (i) if such terrorist act has resulted in death of any person, be punishable with death;
- (ii) if such terrorist act has resulted in permanent disability of serious nature, be punishable with imprisonment for a term which shall not be less than ten years, but which may extend to term of life and shall also be liable to fine;
- (iii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(4) Whoever attempts to commit or advocates or advises the commission of a terrorist act or any act preparatory to a terrorist act shall be punishable with imprisonment which shall not be less than three years but which may extend to term of life and shall be also liable to fine.”(151)

SHRI G. M. BANATWALLA : My both amendments further enhance the definition of the term Terrorist Act. Here, it is confined only to an act to overawe the government as by law established and others. I suggest not only the governments that is both the Central and the State Governments but also to overawe the Parliament and the Legislatures of any State. My suggestion which is incorporated in the amendment is in accordance with the suggestion made in the 42nd Report of the Law Commission also. I, therefore, hope that the suggestion in this amendment will be accepted by the government.

SHRI A. K. SEN : The Parliament is an organ of the\*\* Therefore, it is not necessary to accept it.

PROF. MADHU DANDAVATE : No, it is not an organ of the\*\* It is an organ of the State, not of the\*\* Mr. Speaker,

there was a privilege motion and you had given the ruling.

MR. SPEAKER : I am not disputing it.

SHRI AMAL DATTA : There is a Report of the Law Commission also.

SHRI G. M. BANATWALLA : What harm can there be in accepting such an amendment ?

PROF. MADHU DANDAVATE : Expunge the word\*\*

SHRI G. M. BANATWALLA : At least the whole line should not come on record. You better expunge it from the record.

MR. SPEAKER : We have already done it. I ruled yesterday.

SHRI R. P. DAS : My amendment relates to punishment for the terrorists. I think the government have enough provision for dealing with the terrorists.

SHRI AMAL DATTA : Instead of different sections of people, they should put the words 'of different castes or religions' because that is the aim of the whole thing; not different sections, because as I explained, if sections may also be defined as trade unions, there is labour rivalry.

This will also come under the definition of a terrorist act. Because even if a lathi is used, that will be a terrorist act.

The other one furtherdown is, if anything is used, "is of a hazardous nature", if a stick or flag-staff or anything can be taken out and used. I want to say, "people of different castes or religions" instead of "different sections of the people". It is there in the Indian Penal Code. This is my submission.

SHRI SAIFUDDIN CHOWDHURY : The meaning of my amendment is that we are not deficient in laws to combat terrorism. What is lacking is the political will and strict measures. That is why I feel that this Bill which is going to be passed is totally irrelevant. (Interruptions) I am sorry that the ruling party members have taken this for granted. I have gone through the Indian Penal Code and the Criminal Procedure Code. Nothing is lacking there. Everything is there.

AN HON. MEMBER : Not terrorism.

18.00 hrs.

[English]

MR. SPEAKER : If everything is there, I do not think that there is any need for this Bill. Why are we getting this now ?

SHRI SAIFUDDIN CHOWDHURY : Nothing prevented the Government from taking action. My point is that the impression should not go to the people that we are not against terrorism. We are united with them on the question of terrorism. But this kind of scanty exercise, that may satisfy the ruling party people. But we are not satisfied.

SHRI NARAYAN CHOUBEY : My amendments are very simple. I request the hon. Minister to accept them.

Whenever we go on some strike or some such thing, some section or other differs. So I do not want it to be dropped. (Interruptions) Only recently the Congress party gave a call for strike and they burnt the buses. (Interruptions).

MR. SPEAKER : No insinuations or allegations are allowed.

SHRI NARAYAN CHOUBEY : I want the words "disruption of any supplies or services essential to the life of the community" to be dropped.

[Translation]

SHRI VIJOY KUMAR YADAV (Nalanda) : Mr. Speaker, Sir, I would like to say only one thing in regard to the Amendments Nos. 131, 132, 133 and 134 moved by me to Clause 3 of this Bill. The chapter regarding punishment in it has been divided into two parts. For actual killings and murders, a provision has been made for death sentence and for the rest of the crimes a provision has been made for life imprisonment.

MR. SPEAKER : Do you want that there should be the same punishment for both types of crimes ?

SHRI VIJOY KUMAR YADAV : No. I want that this punishment should be reduced.

SHRI D. B. PATIL : The Government has provided death sentence for causing death and a minimum of five years of imprisonment which can be extended to life, in case of injuries. Now, in between death and simple injury, there can be permanent disability of a serious nature. So far as that is concerned, I wish to provide 10 years imprisonment which may be extended to term of life.

SHRI A. K. SEN : We cannot accept the amendments.

MR. SPEAKER : Now, I shall put all the amendments to clause 3 to vote.

All the Amendments were put and negatived.

MR. SPEAKER : The question is :

"That clause 3 stand part of the Bill.

The Motion was adopted.

Clause 3 was added to the Bill.

Clause 4—Punishment for Disruptive Activities.

SHRI N. VENKATA RATNAM : I beg to move :

Page 2, line 21,—

omit "question"(21)

Page 3, line 24,—

after "indirectly" insert—

"for overthrow of the Government of India or Government of any State of India or"(22)

Page 3, line 38,—

omit "advise, suggest or prompt,"(23)

SHRI SATYAGOPAL MISRA : I beg to move :

Page 3,—

for lines 17 to 30, substitute—

"(2) For the purposes of subsection (1), 'disruptive activity' means any action taken by act of killing any person or destroying any public or private property."(30)

Page 3,—

omit lines 31 to 41 (31)

SHRI BASUDEB ACHARIA : I beg to move :

Page 3, line 16,—

for "term of life" substitute "ten years" (35)

Page 3,—

omit lines 17 to 30 (36)

Page 3, line 36,—

omit "advises, suggests" (37)

SHRI R. P. DAS : I beg to move :

Page 3, lines 12, and 13,—

omit "or conspires or attempts to commit or abets, Advocates, advises, incites or knowingly facilitates the commission of,"(64)

Page 3, lines 15 and 16,

omit "but which may extend to term of life and shall also be liable to fine" (65)

Page 3, lines 18 to 20,—

omit "whether by act or by speech or song or balled or verse or words or by any book, pamphlet, paper, writing, record, tape video cassette; drawing, painting, representation of in any other manner whatsoever,..."(66)

Page 3, line 21,—

omit "or is intended to disrupt, whether"(67)

Page 3, lines 21 and 22,—

omit "whether directly or indirectly"(68)

Page 3, line 23,—

omit "is intended to bring about or"(69)

Page 3, lines 23 and 24,—

omit "whether directly or indirectly" (70)

I beg to move :  
SHRI SAIFUDDIN CHOWDHURY :

Page 3,—

for lines 12 to 16, substitute—

"4. Whoever commits or conspires attempts to commit a terrorists act shall be liable to punishment according to the provisions of Indian Penal Code." (96)

SHRI NARAYAN CHOUBEY : I beg to move :

Page 3, line 14,—

omit "or any act preparatory to a disruptive activity"(120)

SHRI VIJOY KUMAR YADAV : I beg to move :

Page 3, lines 32 to 35,—

omit "Whethere by act or by speech or song or balled or verse or words or by any book, pamphlet, paper, writing, record, tape video cassette, drawing painting, representation or in any other manner whatsoever". (140)

SHRI SATYAGOPAL MISHRA (Tamluk) : Sir, this clause is likely to be misused against our famous poets and people like that. That is why I have moved my amendment.

MR. SPEAKER : That is finished.

SHRI R. P. DAS (Krishnagar) : This Clause proposes punishments which are deterrent. I do not think that with these punishments we will be able to tackle the situation. Therefore, I have moved my amendments.

PROF. MADHU DANDAVATE : Sir, I have been directed by the Speaker to move so that he will also be moved and he will reconstruct that.

SHRI A. K. SEN : What I suggest is that you withdraw them and I shall move my amendments with those words.

PROF. MADHU DANDAVATE : I am only worried about the substance. Even if it goes in your name, I don't mind. (Interruptions). Sir, I had said the same thing, but you ask me to move them. You are persuading others to withdraw, and you are persuading me to move !

MR. SPEAKER : That is what I am saying, you are right.

PROF. MADHU DANDAVATE : I suggested the way. I withdraw and I will accept his amendments. That is the best way.

MR. SPEAKER : Are you going to move an amendment to that, Mr. Minister ?

SHRI A. K. SEN : Yes.

MR. SPEAKER : That is right, but are you moving your amendment.

SHRI A. K. SEN : Yes, Sir.

MR. SPEAKER : Than I will allow him to withdraw.

(Interruptions)

SHRI NARAYAN CHOUBEY : Sir, my amendment reads thus :

Page 3, line 14,—

omit "or any act preparatory to a disruptive activity"(120)

Sir, it is a very serious thing. Sir, it is stated in sub-clause (1) of clause 4 as follows :

"Whoever commits or conspires or attempts to commit or abets, advocates, advises, incites or knowingly facilitates the commission of, any disruptive activity or any act preparatory to a disruptive activity..."

AN HON. MEMBER : What is wrong there ?

SHRI NARAYAN CHOUBEY : It is very much wrong. Suppose something is preparatory to disruptive activities. That too will come under this. So, I would request you to withdraw this. This is all and nothing else.

SHRI A. K. SEN : Sir, I will explain to Mr. Narayan Choubey because preparatory to a particular act is very important and it must be punished. You are preparing explosives for the purpose of putting them in the transistors. It must be punished.

SHRI NARAYAN CHOUBEY : What you have said is, "conspires or attempts to commit or abets, advocates, incites or knowingly facilitates the commission of..."

(Interruptions)

PROF. MADHU DANDAVATE : I have one request to you. Please make an official announcement regarding your amendment. Otherwise it will be lost.

SHRI A. K. SEN : I have already signed it, I have moved for the leave of the House to put in my amendments without the requisite notice. It is substantially the same as that of Prof. Dandavate excepting that we have used the words in addition to his, like this : "In any other manner whatsoever." I may read the whole thing :

"Page 3, for lines 18 to 20, substitute action taken, whether by act or by speech or through any other media"

That is Prof. Dandavate's amendment. Our addition is, "or in any other manner whatsoever".

PROF. MADHU DANDAVATE : "In any other manner" is yours.

SHRI A. K. SEN : Another one is :

"Page 3, for lines 32 to 35, substitute it is hereby declared that any action taken, whether by act or by speech or through any other media or"

These are the words added to it : "in any other manner whatsoever"

SHRI G. G. SWELL : There is a procedural irregularity. Prof. Dandavate has withdrawn his amendments in response to the Minister's saying that he is going to move his amendments. Now, the Minister's amendments should bear no relation in writing to the amendments of Prof. Dandavate. It should be independent of his wording.

MR. SPEAKER : That is what it is.

PROF. MADHU DANDAVATE : Sir, I move that my name should be expunged from the records !

SHRI A. K. SEN : Sir, I beg to move :

Page 3, for lines 18 to 20, substitute— action taken, whether by act or by speech or through any other media or in any other manner whatsoever,—(156)

Page 3, for lines 12 to 35, substitute— it is hereby declared that any ac<sup>ty</sup> taken, whether by act or by speech or

through any other media or in any other manner whatsoever which—(157)

MR. SPEAKER : The question is :

Page 3, for lines 18 to 20, substitute—  
action taken, whether by act or by speech or through any other media or in any other manner whatsoever,—(156)

Page 3, for lines 32 to 35, substitute—  
it is hereby declared that any action taken, whether by act or by speech or through any other media or in any other manner whatsoever which—(157)

The motion was adopted.

MR. SPEAKER : I shall now put all other amendments to the vote of the House.

All the amendments were put and negatived.

MR. SPEAKER : The question is :

“That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5—Power to make rules

SHRI N. VENKATA RATNAM (Tenali) : I beg to move :

Page 5,—

omit lines to 18. (24)

Page 5,—

omit lines 21 to 25. (25)

Page 5,—line 29,—

add at the end—

“as per the search proceedings of Criminal Procedure Code.”(26)

SHRI SATYAGOPAL MISRA (Tamluk) : I beg to move :

Page 3,—

omit lines 42 to 44. (32)

Page 4, line 8,—

for “communication with” substitute—

“supply of materials or weapons for the terrorist and disruptive activities to.” (34)

SHRI BASUDEB ACHARIA (Bankura) : I beg to move :

Page 4,—

omit lines 8 to 10. (38)

SHRI A. K. SEN : I beg to move :

Page 4, line 2,—

for “empower any authority” substitute—

“empower any authority (being the Central Government or a State Government or the Administrator of a Union territory under article 239 of the Constitution or an officer of the Central Government not lower in rank than that of a Joint Secretary to that Government or an officer of a State Government not lower in rank than that of a District Magistrate or an officer competent to exercise under any law the powers of a District Magistrate)” (58)

SHRI R. P. DAS (Krishnagar) : I beg to move :

Pages 4 and 5,—

omit lines 1 to 43 and lines 1 to 29 respectively. (72)

SHRI AMAL DATTA (Diamond Harbour) : I beg to move :

Page 4, lines 2 and 3,—

omit “and may empower any authority to make orders providing for,”(88)

PROF. MADHU DANDAVATE : I beg to move :

Page 4,—

for lines 32 and 33, substitute—

“(h) the control of movements of foreign nationals within India;”(110)

Page 5,—

omit lines 13 and 14. (111)

Page 6, line 1,—

for “as respects” substitute “as regards” (112)

Page 6,—

omit lines 11 to 13. (113)

[Prof. Madhu Dandavate]

Sir, I want to make one request that can be adjusted. You have said "classes" and wherever "classes" is mentioned, it refers to economic class and that leads to all sorts of complications. Instead of "classes", if you accept "sections", that also conveys the same meaning as you wanted. Class should not be there because it means, economic class. Everybody would accept it. Even there is no distant possibility that those who are struggling for economic emancipation, trade-unions etc., should be covered. I think, this amendment should be accepted. (*Interruptions*).

SHRI NARAYAN CHOUBEY  
(Midnapore) : I beg to move :

Page 4, line 20,—

omit "or hatred between different classes of the people of India" (127)

SHRI A. K. SEN : Sir, I move my amendment to clause 5. I shall put the amendment immediately.

PROF. MADHU DANDAVATE : There is no difficulty. Instead of "classes" it should be read as "sections".

SHRI A. K. SEN : I beg to move :

Page 4, line 20,—

for "classes" substitute "section" (158)

PROF. MADHU DANDAVATE : Let there be unanimous acceptance.

[*Translation*]

SHRI KUNWAR RAM : Mr. Speaker, Sir, in English for 'classes' you have provided 'sections' but what will be its equivalent in Hindi ?

PROF. MADHU DANDAVATE : 'Vibhag' stands for 'Section' and 'Varga' stands for "Class."

SHRI A. K. SEN : It may be "Hissa" also.

PROF. MADHU DANDAVATE : Keep whatever you like in Hindi, but in English, it should not be class.

SHRI A. K. SEN : 'Section' is called 'Vibhag' and 'Class' is called 'Varga.'

[*English*]

SHRI VIJOY KUMAR YADAV  
(Nalanda) : I beg to move :

Page 4, line 2,—

after "authority" insert—

"not below the rank of District Magistrate" (143)

Page 4, lines 19 and 20,—

omit "or to promote feelings of ill-will, enmity or hatred between different classes of the people of India" (144)

Page 5, line 36,—

for "seven" substitute "three" (145)

SHRI D. B. PATIL (Kolaba) : I beg to move :

Page 6, line 12,—

omit "other than the husband or wife of such person," (153)

SHRI SATYAGOPAL MISRA : I have moved my amendments. The Government should not have the arbitrary power to make rules. This is my first amendment.

My second point is that Clause No. 5 sub-section (2) (a) (4) where 'communication with persons', there I have said in place of communication 'supply of materials or' of the terrorist and disruptive activities. This amendment should be accepted clause communication is a very vague term. If one meets another person, that can be said to be communication. Therefore, I have brought this amendment. I expect that the Government should accept it.

SHRI R. P. DAS : My amendment is to all the lines 1 to 43 of the rule making procedure. I think this rule should be made later on after the Bill is enacted. Therefore, I suggest that this should be omitted.

SHRI AMAL DATTA : In this, they are trying to empower any authority to make orders providing for prohibition of certain things and the way certain people should behave. This is not correct. Whatever is prescribed there, should be prescribed in the Act or in the Rules made under the Act. But no authority should be given all the powers under the Act to make any order. This is very reasonable. The amendment should be accepted.

SHRI NARAYAN CHOUBEY : The authority would be district magistrate or somebody more than that, Joint Secretary. The hon. Minister accepted that.

SHRI VIJOY KUMAR YADAV : I have proposed District Magistrate in place of any authority. That has been included by the Government.

SHRI NARAYAN CHOUBEY : The hon. Minister accepted my amendment.

SHRI A. K. SEN : I am only trying to tell you that it is already there.

SHRI NARAYAN CHOUBEY : I am thankful that the hon. Minister has accepted it. I am thankful to him.

SHRI D. B. PATIL : I have already moved my amendment.

MR. SPEAKER : Mr. Ashok Sen, do you want to reply to any other points ?

SHRI A. K. SEN : No. I will carefully frame all the rules and, in fact, the powers are to be exercised by Designated responsible Officers.

SHRI NARAYAN CHOUBEY : What do you mean by communication ?

SHRI A. K. SEN : Communication is a very well-known term.

MR. SPEAKER : The question is :

Page 4, line 2,—

for "empower any authority"  
substitute—

"empower any authority (being the Central Government or a State Government or the Administrator of a Union Territory under Article 239 of the Constitution or an officer of the Central Government not lower in rank than that of a Joint Secretary to that Government or an officer of a State Government not lower in rank than that of a District Magistrate or an officer competent to exercise under any law the powers of a District Magistrate." (58)

Page 4, line 20,—

for "classes" substitute "sections"(158)

The motion was adopted.

MR. SPEAKER : Now I shall put all the other amendments to Clause 5...

PROF. MADHU DANDAVATE : Before you put that, I have to say that the foreign nationals and others have not been taken up at all, 110 and 111, because that Clause involves only 109. What about 110 and 111 ? In the morning Prof. N. G. Ranga and I had agreed. We gave a formulation that foreign nationals should be included in that.

The Minister was inclined to accept that.

SHRI A. K. SEN : I think, it includes that.

PROF. MADHU DANDAVATE : For instance, I have suggested foreign nationals and others arriving in India from outside India...

SHRI A. K. SEN : I think, it is covered.

MR. SPEAKER : I shall now put all the other amendments moved to Clause 5 to the vote of the House.

All the other amendments were put and negatived.

MR. SPEAKER : The question is :

"That Clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6—Enhanced Penalties

SHRI R. P. DAS : Sir, I beg to move :

Page 6, line 23,—

for "ten years" substitute—

"not more than six years"(73)

Page 6, lines 23 to 25,—

omit "or, if his intention is to aid any terrorist or disruptionist, with death or imprisonment for a term which shall not be less than three years but which may extend so term of life," (74)

SHRI SAIFUDDIN CHOWDHURY :  
Sir, I beg to move :

[Shri Saifuddin Chowdhury]

Page 6,—

for lines 17 to 26, substitute—

“6. (6) If any person contravenes the provisions of this Act, he shall be liable to punishment under Arms Act, 1959, the Explosives Act, 1884, the Explosive Substances Act, 1908, or the inflammable substances Act, 1952, according to the merit of the case.”(99)

MR. SPEAKER : I shall now put the Amendments moved to Clause 6 to the vote of the House.

The amendments Nos. 73, 74 and 99 were put and negatived.

MR. SPEAKER : The question is :

“That Clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Clause 8—Place of Sitting

SHRI G. M. BANATWALLA : Sir, I beg to move :

Page 7, line 13,—

after “so to do,” insert—

“and with the concurrence of the Chief Justice of the High Court.”(41)

Page 7, line 20,—

after “accused” insert—

“and with the concurrence of the Chief Justice of the High Court”(42)

MR. SPEAKER : I shall now put the Amendments moved to Clause 8 to the vote of the House.

The amendments Nos. 41 and 42 were put and negatived.

MR. SPEAKER : The question is :

“That Clause 8 stand part of the Bill.”

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9—Jurisdiction of Designated Courts

SHRI AMAL DATTA : Sir, I beg to move :

Page 7, lines 38 and 29,—

omit “or otherwise that it is necessary or expedient in the public interest so to do,” (89)

Page 7, line 38,—

omit “whether” (90)

Page 7, line 40,—

omit “or otherwise” (91)

Page 8, line 5,—

(i) omit “and whereupon”

(ii) omit lines 6 to 27. (92)

MR. SPEAKER : I shall now put the amendment moved to Clause 9 to the vote of the House.

The amendments Nos. 89, 90, 91 and 92 were put and negatived.

MR. SPEAKER : The question is :

“That Clause 9 stand part of the Bill.”

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10—Power of Designated Courts with respect to other offences.

SHRI G. M. BANATWALLA : I beg to move :

Page 8,—

omit lines 28 to 30 (43)

Page 8, line 33,—

omit “or under any other law” (44)

Page 8, line 35,—

omit “or, as the case may be, such other law,” (45)

MR. SPEAKER : I will now put the amendments to vote.

The amendments Nos. 43, 44 and 45 were put and negatived.

MR. SPEAKER : Now, the question is :

“That clause 10 stand part of the Bill.”

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11 was added to the Bill.

Clause 12—Procedure and Powers of Designated Courts.

SHRI AMAL DATTA : I beg to move :

Page 9, line 32,—

for 'two years' substitute "six months"(93)

PROF. MADHU DANDAVATE : I beg to move :

Page 9, line 16,—

after "fine" insert—

"which may extend up to five thousand rupees"(114)

PROF. MADHU DANDAVATE : This fine of Rs. 5000 are you accepting? I am offering, why don't you accept?

MR. SPEAKER : I will now put the amendments to vote.

The amendments Nos. 93 and 114 were put and negatived.

MR. SPEAKER : Now, the question is :

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13—Protection of witnesses.

SHRI G. M. BANATWALLA : I beg to move :

Page 10,—

for lines 1 to 4, substitute—

"13. (1) Notwithstanding anything contained in the Code, any proceedings or part thereof before a Designated Court may be conducted in camera if it appears to the Court necessary so to do for the purpose of protection of any witness or witnesses. (46)

SHRI D. B. PATIL : I beg to move :

Page 10,—

omit lines 5 to 8(145)

Page 10,—

omit lines 13 to 15 (155)

MR. SPEAKER : I will now put the amendments to vote.

The amendments Nos. 46, 154 and 155 were put and negatived.

MR. SPEAKER : The question is :

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14 and 15 were added to the Bill.

Clause 16—Appeal

SHRI C. MADHAV REDDI : I beg to move :

Page 10, line 36,—

for "Supreme Court" substitute "High Court". (5)

MR. SPEAKER : I will put the amendment to vote.

The amendment Nos. was put and negatived.

MR. SPEAKER : Now, the question is :

"That clause 16 stand parr of the Bill."

The motion was adopted.

Clause 16 was added to the Bill.

Clause 17—Modified application of certain provisions of the Court.

SHRI MOOL CHAND DAGA : I beg to move :

Page 11, line 41,—

for "and" substitute "or" (17)

SHRI G. M. BANATWALLA : I beg to move :

Page 11,—

omit lines 15 to 17 (47)

Page 11,—

for lines 18 to 21, substitute —

"(b) the references in sub-section (2) thereof to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty

[Shri G. M. Banatwalla]

days", "six months" and "six months", respectively; and"(48)

Page 11, lines 40 and 41—

omit "that he is not guilty of such offence and" (49)

SHRI MOOL CHAND DAGA : In clause 17, sub-clause (5) it is said :

"where the Public Prosecutor opposes the application, the court is satisfied there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."

Here for the word 'and' I have substituted the word 'or', so that either if he is guilty of an offence then you cannot release him on bail or if he is likely to commit an offence, then also he cannot be released on bail.

SHRI AMAL DATTA : We are supporting you.

SHRI G. M. BANATWALLA : Here the point is that no person shall be released on bail unless and until the court feels that he is not guilty. Now, how can that be ? How the court can be called upon to pre-judge the guilt of the person ? That is absolutely an absurd thing.

Sir, you will agree with me that I come forward with sense but then the sense must prevail. The person has applied for a bail. The condition is that bail should be given when the court feels that he is not guilty of the offence. How can you pre-judge the entire issue ? The other conditions are alright. I am not objecting to other conditions, *viz.*, the person is not likely to commit another offence and so on and so forth. But this particular thing is a mockery and a farce on our laws. Therefore, I make a forceful plea to the government to consider the farce that is being created through this piece of legislation.

SHRI A. K. SEN : Mr. Banatwalla is always vehement about his expression but I would refer him to certain decisions of the Supreme Court and the House of Lords. When he comes to me privately I will show him that the language is exactly the same it has reasonable grounds of believing that he is guilty for the purpose of adjudication

of the bail petition and this is exactly the criteria laid down by the Supreme Court and also by the House of Lords.

MR. SPEAKER : Mr. Daga, are you withdrawing your amendment ?

SHRI MOOL CHAND DAGA : I am not pressing my amendment.

MR. SPEAKER : It does not satisfy me. Either you withdraw or you press.

SHRI MOOL CHAND DAGA : I withdraw my amendment.

MR. SPEAKER : Has the hon. Member leave of the House to withdraw his amendment ?

HON. MEMBERS : Yes.

The amendment No. 17 was, by leave, withdrawn.

MR. SPEAKER : I will put Mr. Banatwalla's amendments to the vote of the House.

The amendments Nos. 47, 48 and 49 were put and negatived.

MR. SPEAKER : The question is :

"That Clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clause 17-A (New)

SHRI HAROOBHAI MEHTA : I beg to move :

Page 11,—

after line 45, add—

"17A. No Court including a Designated Court shall take cognizance of an offence punishable under this Act except with the sanction of the Central Government or the State Government, or upon a police report."(6)

Sir, I am moving this amendment with a view to ensuring that there is no abuse of process of court by means of vexatious complaints filed by private complainants. There are instances in Gujarat where even police officers in the course of their duty of maintenance of law and order have been subjected to prosecution in courts by means of private complaints. I request the hon. Minister to accept this amendment.

move :

SHRI A. K. SEN : I am sorry, Sir. I cannot accept it.

MR. SPEAKER : Mr. Mehta, are you withdrawing your amendment ?

SHRI HAROOBHAI MEHTA : I withdraw my amendment.

MR. SPEAKER : Has the hon. Member leave of the House to withdraw his amendment ?

HON. MEMBERS : Yes.

The amendment No. 6 was, by leave, withdrawn.

**Clause 18—Competence of Central Government to exercise powers of State Government and delegation of powers**

SHRI C. MADHAV REDDI : I beg to move :

“Page 12,—

(i) omit lines 1 to 14.

(ii) line 15,—

for “(3)” substitute “18.” (7)

SHRI G. M. BANATWALLA : I beg to move :

“Page 12,—

after line 14, insert—

“Provided that no such officer or authority shall be below the rank prescribed by rules made under this Act.” (50)

SHRI A. K. SEN : I beg to move :

Page 12, line 6,—

for “any power” substitute—

“any power (except the power under section 5 to make rules)” (59)

Page 12,—

for line 10 to 14, substitute—

“(a) by any officer of the Central Government not lower in rank than a Deputy Secretary to that Government, or

(b) whether the State Government or by any officer of a State Government not lower in rank than a Sub-divisional

Magistrate or Magistrate of the First Class.” (60)

SHRI SAIFUDDIN CHOWDHURY : I beg to move :

Page 12,—

omit lines 1 to 4. (102)

Sir, I am not moving amendments Nos. 103 and 104.

PROF. MADHU DANDAVATE : In place of ‘concurrence’ he has accepted ‘consultation’. So, I do not move my amendment No. 115.

MR. SPEAKER : All right. Mr. Bhattam. His amendment No. 129 is the same as No. 102. So, it can't be moved.

There is a Government Amendment No. 159. This is in addition to Nos. 59 and 60 already moved. Now he may move it.

SHRI A. K. SEN : I beg to move :

Page 12, line 2,

for “may be exercised” substitute—

“may, after consultation with the State Government, be exercised.” (159)

MR. SPEAKER : Mr. C. Madhav Reddi—do you want to speak on your amendment ?

SHRI C. MADHAV REDDI : Sir, I have already moved my amendment. This consultation with the State Government will not satisfy us. It has to be with the concurrence of the State Government. If the Minister is prepared to accept it, then I can withdraw.

SHRI G. M. BANATWALLA : Mr. Speaker, Sir, I have already moved my amendment.

At the fag end, I am having some consolation and that is, that the purpose of my amendment No. 50 has been met by the later amendment given by the hon. Minister with respect to the prescription of authorities which shall exercise the powers under the Act. I am thankful to the hon. Minister. I seek leave of the House to withdraw my amendment No. 50.

SHRI SAIFUDDIN CHOWDHURY : I am not satisfied with the word ‘Consultation’

[Shri Saifuddin Chowdhury]

for, even the inclusion of that word 'Consultation' will remain only as an expression of No-confidence on the State Government. The State Governments are there to fight terrorism also. If any terrorists indulge in terrorism there are so many methods to fight them out also in this country. But, Sir, why all these anticipations and why unnecessary differences are created between the Centre and the States ?

**SHRI A. K. SEN :** I have already moved Government Amendment No 159.

**MR. SPEAKER :** The original amendments were 59 and 60. In addition, you have moved amendment No. 159. There are three Government amendment now. Do you want to reply to the points raised by members ?

**SHRI A. K. SEN :** I only wish to say that this is for the purpose of meeting a contingency. The only power (as I explained to you originally) was to appoint a Designated Court, with the concurrence of the State High Court.

Even if the Centre can exercise the power, they have to do it with the concurrence of the State High Court.

Therefore, whether the State Government exercises that power, or the Central Government exercises that power, they have to take the concurrence of the State High Court. Therefore, we are providing for a contingency that supposing a State Government does not appoint a 'Designated Court' the Central Government will do it after consulting the State Government, and with the concurrence of the State High Court.

**MR. SPEAKER :** Now I will put Government Amendments Nos. 59, 60 and 159 to the vote of the House.

The question is :

Page 12, line 6,—

for "any power" substitute

"any power (except the power under section 5 to make rules)" (59)

Page 12,

for lines 10 to 14, substitute

"(a) by any officer of the Central Government not lower in rank than a Deputy Secretary to that Government, or

(b) by any State Government or by any officer of a State Government not lower in rank than a sub-divisional Magistrate or Magistrate of the First Class." (60)

Page 12, line 2,

for "may be exercised" substitute—

"may, after consultation with the State Government, be exercised." (159)

The motion was adopted.

**MR. SPEAKER :** Government Amendments Nos. 59, 60 and 159 are adopted.

**SHRI G. M. BANATWALLA :** I seek leave of the House to withdraw my amendment No. 50.

**MR. SPEAKER :** Has he the leave of the House to withdraw his Amendment No. 50 ?

**HON. MEMBERS :** Yes.

The amendment No. 50 was, by leave, withdrawn.

**MR. SPEAKER :** Government Amendments Nos. 59, 60 and 159 have already been adopted. Now, I shall put all the other Amendments moved by other Members to the vote of the House.

The amendment Nos. 7 and 102 were put and negatived.

**MR. SPEAKER :** Now, the question is :

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 19—Power of Supreme Court to make rules.

**SHRI N. VENKATA RATNAM :** I beg to move :

Page 12, line 25,—

after "make such rules" insert—

"of procedural nature only"

**MR. SPEAKER :** I shall now put Amendment No. 27 moved by Shri N. Venkata Ratnam to the vote of the House.

(27)

The amendment No. 27 was put and negatived.

MR. SPEAKER : The question is :

“That Clause 19 stand part of the Bill.”

The motion was adopted.

Clause 19 was added to the Bill.

Clauses 20 to 23 were added to the Bill.

Clause 24—Protection of action taken under the Act.

MR. SPEAKER : Mr. Chowdhury, are you moving your Amendment ?

SHRI SAIFUDDIN CHOWDHURY : I am not moving my amendment.

MR. SPEAKER : The question is :

“That Clause 24 stand part of the Bill.”

The motion was adopted.

Clause 24 was added to the Bill.

#### Clause 1

MR. SPEAKER : Amendments of Shri G. L. Dogra and Shri Mool Chand Daga. They are not moving their amendments.

SHRI SATYAGOPAL MISHRA : I beg to move :

Page 1,—

(i) line 17—for “two years” substitute “six months”

(ii) Page 1, lines 17 and 18, omit out its expiry under the operation of this sub-section shall not affect.”

(iii) Pages 1 and 2,—

omit lines 19 to 21 and 1 to 12, respectively. (28)

3 PROF. SAIFUDDIN SOZ : I am not moving my amendment No. 52.

SHRI AMAL DATTA : I am not moving my amendment No. 76.

PROF. MADHU DANDAVATE : Since the hon. Minister has already explained the position, I am not moving my amendment No. 106.

SHRI VIJOY KUMAR YADAV : I am not moving my amendment No. 130.

SHRI D. B. PATIL : I am not moving my amendment No. 146 because of the explanation given by the hon. Minister. But I am moving my amendments Nos. 147 and 148.

I beg to move :

Page 1, line 13,—

for “acts” substitute “disruptive activities”(147)

Page 2,—

for lines 10 to 12, substitute—

“and any such legal proceedings may be continued and any such penalty, forfeiture or punishment may be imposed as if this Act had not expired”(148)

Mr. Speaker, Sir, so far as my amendment No. 147 of Clause 1 is concerned, it is only a proviso to the proposed Act because the proposed Act shall not apply to the State of Jammu and Kashmir with regard to the terrorists activities. Here it does not concern only with the terrorists activities but disruptive activities also. The terrorists activities and the disruptive activities have been defined here. In Clause 3, the terrorists activities have been defined and in Clause 4 disruptive activities have been defined. As it stands, it will mean that the disruptive activities will be applicable to the State of Jammu and Kashmir. So, I move my amendment.

MR. SPEAKER : I shall put all the amendments moved to clause 1 to the vote of the House.

The amendments Nos. 28, 147 and 148 were put and negatived.

MR. SPEAKER : The question is :

“That Clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

SHRI A. K. SEN : I beg to move :

“That the Bill, as amended, be passed”.

While doing so, I would report to the House once more to extend their unanimous

[Shri A. K. Sen]

assent to the Bill and their complete support of the measure. This will be historical in its impact and it will strengthen the hands of the Prime Minister in tackling such a critical and complicated situation. Let us hope that in our life time there would be peace all over the country and particularly in that part of the country where we are disturbed so much and let us wish God speed to the Prime Minister in his effort to resolve this difficult problem. Let us hope that very soon this House will be informed that everything has been solved to the satisfaction of all.

MR. SPEAKER : The question is :

“That the Bill, as amended, be passed.”

The motion was adopted.

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MR. SPEAKER : Hon. Members, we are coming to the close of the long and arduous session and I have great pleasure in thanking the leader of the House.

PROF. MADHU DANDAVATE : I thought, you were moving an adjournment motion !

MR. SPEAKER : It looks like that.

I have great pleasure in thanking the leader of the House, the Parliamentary Unit, the Minister incharge, all the opposition leaders and all the hon. Members of this august House for the cooperation extended to me.

I am so proud that I have the honour to preside over this biggest democratic institution of the world which rises to the occasions and does service to this great nation. I have great faith in you and I am proud of your conduct in this House. You have done very well; so has my staff. I am also thankful to them for their cooperation extended to me. We had fine deliberations. The young Members who have entered for the first time, I think, many of them are doing very fine and I hope that in the future they will put in more work and shine as they ought to, and I have every confidence that they will make a name for themselves and for this House.

Thank you again, and we meet after recess.

SHRI DINESH SINGH : Our thanks to the Chair should also be recorded.

MR. SPEAKER : Thank you very much, Sir.

18.55 hrs.

The Lok Sabha then adjourned sine die.

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