

ately, otherwise the development of the area would be obstructed.

(vii) **Need to provide financial assistance to Andhra Pradesh for restoring road communications in interior regions of Malleswaram affected by cyclone during 1989-90.**

[English]

SHRI K.P. REDDAIAH YADAV (Machlipatnam): The remote villages in Malleswaram and Machlipatnam constituencies of Andhra Pradesh are not having road communications apart from drinking water facilities etc. after the devastating cyclone in the year 1989-90.

I urge upon the Minister for Rural Development to grant special funds for restoring road communications to interior villages of Masula, Malleswaram constituencies.

,13.04 hrs.

STATUTORY RESOLUTION RE. DISAPPROVAL OF THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT ORDINANCE —CONTD.

AND

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT BILL

**AS PASSED BY RAJYA SABHA—
CONTD.**

[English]

MR. CHAIRMAN: The House shall now take item 6 and 7 together. Shri Mani Shankar Aiyan.

SHRI MANI SHANKAR AIYAR (Mayiladuturai): Mr. Chairman, Sir, I am afraid, the Statutory Resolution moved by my friend Syed Shahabuddin is a classic example of attempting to throw the baby out with the bath water.

There is no doubt that there are lapses on the part of our security forces, that the exceptional Acts devised for exceptional circumstances are from time to time misused. But the important thing for us to recognise is that we are faced with an exceptional situation in the State of Jammu & Kashmir; and the exceptional state of affairs there demands exceptional action on the part of the Government.

Syed Shahabuddin asked a question as to how long it would be necessary for us to have such repeated extensions of such an Act. I can only reply that we will have to continue extending it so long as terrorism raises its ugly head in such a sensitive border State.

The problem in Kashmir in regard to terrorism is one which has its origins in the actions of the terrorists. It is also a State where the actions of the terrorists are backed up by hostile foreign powers. It is, therefore, essential for us to understand that the integrity of the Indian Union is under challenge, the unity of our country is under challenge, our secular values are under challenge, the law and order situation is under challenge, the peace of the nation is under challenge. So long as these exceptional circumstances prevail, it will be necessary for us to have resort to exceptional powers to contain these unfortunate actions.

When this Act was first applied to the State of Jammu & Kashmir, compared to the situation that prevails now there was considerable peace in the State. The deterioration of the law and order situation in the State to the point where the bulk of one entire community has more or less migrated from the State, where the rule of the gun prevails over the rule of law, started when there was an abortion of the political process. What is essential is that political elements should be inducted into the life of that State in order that a beginning be made towards the resumption of normal political activities. It is the absence of normal political activity which is responsible primarily for the prolongation of the exceptional circumstances in which the

[Sh. Mani Shankar Aiyar]

law and order situation has become hostage to the gun. The essential step is that the Government should consider how best the troika of three policemen, who have been running that State for the last several months, can be replaced by a political element. We have got in people like Dr. Farooq Abdullah, political elements who are willing to reach out to the people. The Government have got in the proposal to establish People's Committees in the Valley of Kashmir an instrumentality for establishing contacts with the people.

Between 1947 and 1989, when the situation really seriously deteriorated, the people of the Valley had repeatedly demonstrated that they were Indians that they looked towards India, that their emotional integration was with the people of India and that they wished to be part of the democratic mainstream of this country. When there was trouble in the Valley, it could be contained by the use of such an Act as the one which is under the consideration of the House at the moment. There was a problem. I would be the last to deny it, but I would also be the first to affirm that the problem was under control so long as the State Assembly was allowed to function, so long as the elected representatives of the people were allowed to express the grievances of the people, and so long as there was a democratic process to bring about an interaction between the local administration and the people there.

The problem that we are now faced with is that ever since the Government of the Party which Syed Shahabuddin had the good sense not belong to at that time, but has now since joined that party at the behest of another political party, which is today the largest Opposition in the House, sent a Governor to Kashmir who immediately aborted the political process there and did not allow the political element, the nationalist element in the Valley to interact with the people, to contain the forces of terrorism and to make the forces of reason prevail over the forces of unreason.

As a result of the actions taken by that administration there has been virtual exodus of an entire community from the Valley to other parts of the country exodus that I would regard, in terms of Kashmir's history, Kashmir's culture and Kashmir's civilisation to be an entirely unnatural exodus. For years, for centuries before Independence and for decades after Independence and the merger of Kashmir State with the Indian Union, the minority community there, that is, the Hindu community, has lived in perfect harmony with the people, with the majority community there, that is to say the Muslim community of the Valley.

Now suddenly, when at the end of a forty year period or a forty-two year period you get into a situation where large numbers of the minority community in that Valley find themselves obliged to leave the Valley, then surely the reason must lie in some immediate action rather in something that is endemic to the situation there. That immediate action was the partisan attitude of the then administration towards one section of the community at the expense of another. It was the partisan attitude of the administration of that time which sought, by use of an illegitimate exercise of power, to abort the role of the elected people's representatives of the Valley, which thought that by simply answering a gun with a gun, an eye with an eye and a tooth with a tooth, it would restore peace, law and order in that lovely Valley that symbol of the secularism of India.

Unfortunately, the forces at that time did not make it possible to stop the administration from continuing with all its many heinous acts and the situation deteriorated to the point where it is perhaps impractical for us to say that immediately and forthwith there must be a full restoration of the normal political process in that Valley.

But I think over a period of time, and not a very long period of time at that, it should be possible to do this, if we now activate the political process. Activating the political process primarily involves the induction of a person with political experience into the

highest echelons of the administration of the State.

In brief, we should have a political personality as the Governor of that State. That political personality should be given every opportunity to interact with the nationalist political element of the Kashmir Valley (which is largely represented by the National Conference and the Congress Party because the other political parties have been inadequately active politically in the Valley) to bring about a greater involvement of other nationalist political parties of this country in the affairs of this Valley, and to moderate the use of force (which is inevitable) with political action, political thought and political interaction with the people. This primarily also means that the grievances which the people there have against the excesses of the security forces must be given a window through which they can be heard and listened. (Interruptions)

MR. CHAIRMAN: Do not disturb; it is a bad habit to disturb.

SHRI MANI SHANKAR AIYAR: I am persuaded that there are elements in the administration of the Jammu and Kashmir State which have themselves been personally witness to certain excesses that have been committed by the administration in the course of the last 17 or 18 months. If the people of the Valley are persuaded that we have truly now a new administration, a Congress administration running that State, a Congress Party in whom they have reposed their faith for a very long time, for several decades, a Congress administration that reaches out over the guns towards the people, a congress administration that has the compassion to listen to what the people there have to say, a Congress administration that deals with the problems of development and administration and does not rely exclusively upon the security forces, and the use of force, then, then, I would imagine that over a period of several months we can get a restoration of some semblance of normalcy in the Kashmir Valley and build a strength in the Kashmir Valley against adverse foreign influences. against Pakistan in

particular, and ease the strain on the people who live inside the Valley. We have succeeded in foiling the sinister designs of Pakistan for over four decades largely by co-opting the people of the Valley into the larger purposes of the Indian Union. It is that emotional link that is being snapped by the unbridled resort to the gun ever since December, 1989.

I would, therefore, say that while it would be utterly irresponsible for us not to recognise that there is a terrorist situation prevailing in the Valley and, therefore, we require exception instruments such as this ordinance which is now being converted into a piece of legislation of this House, we should do all this in order to contain the fanatical, wild, terroristic and murderous elements that do exist in the Valley. At the same time, we have to recognise that action on the security front must have, as its prime purpose, the setting of the stage for a political settlement which will restore normalcy in the Valley, which would allow conditions to be restored there for those who have migrated from the Valley, to go back to the Valley, and for Kashmir to continue to remain the symbol of our secularism, a home where people of all communities live together, an idyllic valley of peace, love and affection.

Consequently, while supporting the request of the Government of India to convert the ordinance into a piece of legislation of this House, I would simultaneously urge the Home Minister, who is with us, to take urgent action to have an important political personality named as the Governor of Jammu & Kashmir, for the leaders of the National Conference and the Congress Party in the Kashmir Valley to be re-activated and to give the people of Kashmir the people who are living in the Valley, a sense of re-assurance that their interests will be looked after and they will not be moved down by the security forces.

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, Bill has been brought to amend the Terrorists and Disrup-

[Dr. Laxminarayan Pandeya]

tive Activities Act. This Amending Bill has further increased the duration of the Act by two years. Earlier, in 1989 also its duration was extended. This is the second occasion when the demand to similar effect has been made. Most regrettably, I would like know what the Government intend to do by extending the duration again and again. When the ordinary laws are ineffective only then special laws are enacted; but in the prevailing circumstances even their duration has to be extended again and again. What is the cause of it? The circumstances referred to in this regard since 1987 have not changed so far. The circumstances in all the states—whether it is Jammu and Kashmir or Punjab or Assam or any other part of the country, are unchanged though the Government gives assurance to control the terrorist activities by enforcing this law which provides special powers and provisions to the Government, but in vain.

Mr. Chairman, Sir, if we confine our discussion to 2-3-States-Jammu and Kashmir, Punjab and Assam, it would be evident that the situation in these states continues to deteriorate despite these laws.

What is the situation in Kashmir at present? About two lakh Hindu families were forced to migrate to other places and they are in exile in their own country.

Mr. Speaker, Sir, all the markets are deserted and the shops are closed. Only a few tourists dare to venture in the Valley, which was earlier said to be the paradise of tourists. Terrorism has increased so much that the situation has gone out of control. I do not want to repeat the details of incidents in which the Home Minister Shri Mufti Mohammed Syed's daughter was kidnapped and then was released later. Some months back the General Manager of H.M.T. was also kidnapped. Hundreds of employees of the factory came and settled here. The entire business has come to a grinding halt. Even the Central Government officers are closed. Some of them are not functioning well. These

activities are increasing day by day. Not only this, the whereabouts of Doraiswamy are not yet known. Every day an assurance is being given here that the information would be given in a day or two but in vain. It is said that negotiations are being held and they are fruitful also. What are these negotiations. We may come to know one day that his hand is chopped off. These are the threats that are being given by the terrorists. The entire machinery instead of trying to locate him or the condition in which he is staying are now trying to find his chopped off hand.

Mr. Chairman, Sir, let the Government extend the period of validity of this Act. It is necessary. I have no objection to it. But the condition has deteriorated to such an extent that one cannot dare to come out in the open against them. You may dub them as terrorists or divisive forces or by whatever nomenclature you want but they are causing extensive damage to the Valley. There is no Government worth the name. It seems the terrorists are ruling the roost. I would like the Government to control the situation immediately. You may extend the period of validity of this Act but the factual position is that the condition in the valley are not good. The situation has deteriorated to a great extent. Every day there are reports that the people display arms and ammunition in broad daylight in the streets without any fear. Nobody can dare to visit the valley as a tourist. Terrorism has engulfed the entire valley. It would spread after sometime to Jammu also. The same thing is happening in Punjab also. The Government is not able to curb the terrorist activities or the deteriorating law and situation. Trained militants are coming from across the border and infiltration is at its peak. Besides these some people in civil dresses are also crossing the border with these militants. They belong to the Pakistani Armed Forces. All this is happening and the Government may be aware of it, but no effective measures are being taken either to seal the border or deal with the militants. The Government does not even seem to be willing to take such an initiative.

What happened in Assam a few days

ago? What are the reasons for discontentment there? What did the Gorkha National Front do in Darjeeling a few days back? What is all this? After all are we running a country or just making ourselves an object of ridicule. Assam is demanding something, G.N.L.F is demanding another thing, Punjab is also not satisfied nor is Jammu and Kashmir. The entire country is concerned about these activities and because of the attitude of the Government there is disillusionment in the people Desired action is not being taken by the Government. This is one of the important reasons why the situation is deteriorating day by day and terrorism is raising its ugly head. One is not sure when things would improve or terrorist activities would be curbed. Some people say that there is increase in terrorist activities because of economic disparity and regional imbalance. But this cannot be the sole reason. The main reason seems to be laxity in the approach of the Government and the way it ignores a problem. When we say that we would negotiate with the terrorists and militants we open new areas for them and they feel encouraged to continue with these activities.

The terrorists have spread out in the entire Bastar area of Madhya Pradesh during the last few weeks and they have killed a number of policemen there. They are exploring new areas, terrorist activities are starting even in those areas where they never existed.

Mr. Chairman, Sir, I would like to appeal to the hon. Minister that merely asking for extension the validity period of this Act by another two years will not serve the purpose, because the Government has not been able to curb terrorist activities in any of the places whether it be Jammu & Kashmir, Punjab or even Madhya Pradesh which was struck by the terrorists recently. We would like the Government to take stern measures to effectively deal with the terrorists. It is the need of the hour today. The Government should inform the House as to what is the fate of Government employees who are working in the terrorist affected areas. What will be the fate of Shri Doraiswamy? Will the Govern-

ment be pleased to State as to what steps are proposed to be taken so that there are no more kidnappings in future. I would like the hon. Minister to clarify this while replying to the debate on this subject.

[English]

SHRI CHITTA BASU (Barasat): Sir, I rise to oppose the Bill because this Bill is nothing but a new addition of the Maintenance of the Internal Security Act of the emergency days. It is nothing but a replica of the MISA and which has become famous because of its misuses, abuses, operation tyranny and destruction of the democracy of the country. Since it is a resurrection of that MISA, I feel it my responsibility to oppose it firmly and strongly in order to defend the civil liberties of our country.

Sir, it is draconian. It gives extra-ordinary powers to the Executive. Of course, I remember the situation is very grave in Kashmir, in Punjab, in Assam and in several other States because of the terrorist activities. The hon. Home Minister may kindly take note of the views of the Left Parties of the country as a whole. We are not for compromising to the terrorists forces. We are to curb the terrorist forces. We are here to defend the unity and integrity of the country. There is no doubt about the fact. But, we also feel that there is an external factor of terrorism. It is the imperialist countries, it is some western countries which are working round the clock to bring about destabilisation of the country. Therefore, we cannot just fight out the terrorism unless it is based on some ideological plane. We rely more on ideological plane to fight the terrorism. We do feel that there are sometimes necessities of curbing the activities by some legal measures, stern measures. But terrorism cannot be eliminated simply by trigger happy police men, army men or repressive measures.

Sir, I am very glad to hear the views of our hon. Home Minister when he addressed the meeting of the Chief Ministers of the Stats which have been infected by Naxalities activities very recently. My impression has

[Sh. Chitta Basu]

been that we are on the same wave length. This is my impression. If you are not of the same wave length you are free to say that you have got a different view.

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): You are perfectly right.

SHRI CHITTA BASU: Therefore, he is on the same wave length that terrorism cannot be eliminated by simply repressive measures. It needs an ideological fight. In 1987 when this TADA was brought before the House it was said by the former Home Minister, Shri Buta Singh that it would be possible to wipe out the terrorism within two years. (*Interruptions*)

SHRI BASU DEB ACHARIA (Bankura): No, within two years.

SHRI CHITTA BASU: All right, within two years. So, it was said by the former Home Minister, Mr. Buta Singh that it will be possible to wipe out terrorists within two years. Then it had been further extended in 1989. Now you have come to have another extension for another two years. I do not know whether you will be in a position to assure the House that within these two years, by which you want it to be extended, it will be possible for you to remove or eliminate the phenomenon of terrorism.

13.31 hrs.

[SHRI S. MALLIKARJUNAIAH in the Chair]

Before entering into the demerits of this Bill, I want to draw your attention to certain observations made by the United States envoy to Pakistan just yesterday. This is in relation to Kashmir situation. I quite appreciate that the situation is very grave but we should also know the external factor. Just in order to emphasise the external factor of Kashmir problem, of terrorist problem as such, I want to draw your attention to what

has been said by the U.S. Ambassador to Pakistan, Mr. Robert Oakley only yesterday. He sounded a note of warning that India might go to war with Pakistan on the Kashmir issue. I do not know from where does this Ambassador get this information that there will be war between India and Pakistan on Kashmir issue. He goes on further to say—this is with regard to U.S. stand in respect of Kashmir—and I quote from *The Telegraph* dated 12th August:

"As far as the United States is concerned, this is an unresolved issue which must be negotiated between the government of India and the government of Pakistan and the people of Kashmir."

Pakistan has rejected India's claim to Kashmir and has called for a plebiscite by Kashmir in line with a 43-year-old United Nations resolution."

This is absolutely against the position taken by India with regard to Kashmir. Kashmir is a part of India and we have not accepted the plebiscite. Plebiscite was accepted under a particular condition. Pakistan was to give effect to that condition. They did not enforce that condition which was at that time suggested. Therefore, there is no question of having any plebiscite in Jammu and Kashmir. There is no question that Jammu and Kashmir does not belong to India. But the United States of America has taken this position which is absolutely hostile to India's position. On the one hand, they want that there should be war between India and Pakistan, on the other hand, they say that India should accept that plebiscite suggestion, as was accepted by the United Nations. I want that the Government should make its position clear, taking advantage of this debate.

Again, Sir, a British Labour Party Member of Parliament, Mr. Kaufman, who happens to be the shadow Foreign Secretary of Great Britain, made a statement yesterday at Srinagar saying that Kashmir is an international issue. As a matter of fact, it

is not an international issue, it is a bilateral issue between India and Pakistan and it should be settled within the framework of Simla Agreement. I think Mr. Kaufman is a guest of our country. So, I would like to know whether the Government will take up the matter with the British Labour Party.

Coming to the demerits of the Bill—there is no merit in the Bill—on three grounds I am strongly opposed to the extension of the period of this Bill. Firstly, there are enough ordinary laws which can take care of the situation, as far as killings, kidnappings, etc. are concerned. I am not a lawyer. There are many lawyers who can say that the Cr. P.C. gives abundant power to apprehend, to try and to bring to book those activists. Therefore, when enough laws are available under normal rules of the land, this kind of extraordinary laws are not at all necessary.

These laws, this TADA, has been utilised against the trade unions, against the democratic movement.

SHRI BASU DEB ACHARIA . In Haryana.

SHRI CHITTA BASU: This has already been invoked in Tamil Nadu, Maharashtra, Andhra Pradesh, Gujarat and Rajasthan and also to suppress the trade union activities. I have got an instance. Shri Nirmal Singh, President of Punjab Panchayats Secretaries Union was held under TADA. He was nothing but a trade union activist. He was the President. He was writing against the Block Development Officer. The Block Development Officer got him arrested under TADA because his wrong doings were exposed by this gentleman. Therefore, this has been misused and this is likely to be misused. If it is again brought to light, it will further be misused because people are on the road to resist the Government's economic policies, which are disastrous for the country. The entire working class, the entire peasantry, the entire middle-income group will have to take the path of struggle and resistance against the dangerous and disastrous eco-

nomic policies of the Government which are in the offing.

I therefore, apprehend that when these workers' movement, peasants' movement and the movement for restoration of civil liberty are there, the TADA will be used against many of us. I, therefore, cannot discern myself. I cannot hand over the arms to you to suppress our struggle, to suppress our movement and to suppress the civil liberties of the country.

The second strong point of my opposition to this Bill is that it shifts the onus of proving the innocence to the arrested persons. Normally in our country, in our judiciary, it is the duty of the prosecutor to prove whether the accused or whether the persons arrested is guilty or not. The responsibility of proving his guilt lies with the prosecution. Here you have taken the right. You want that the onus of proof should be shifted to the arrested person. This is in violation of the normal principle of judiciary. You arrest me and you ask me to prove that I am innocent, whereas it should be your duty to prove that I am guilty. It is not my responsibility to prove that I am not guilty. By this Act you want to revamp the basic and normal principle of judiciary accepted in our country. Therefore, it is highly objectionable and we cannot accept this principle at all.

Thirdly, under rules framed under TADA, the confession made before the Police can be admitted as evidence. I think he is not only satisfied with the harsh provisions in the Bill but he has also amended or incorporated certain provisions in the rules which makes it obligatory, which makes it clear that confession made under duress, confession made before the Police may be part of the evidence against the accused;

These three basic principles are, at least, of such nature which under norms subvert the basic principles which we hold as very high. I, therefore, have got no other alternative. I am quite aware of the fact that terrorist danger is growing. It should be fought. We are for the unity and integrity of the country.

[Sh. Chitta Basu]

But that cannot be done at the cost of civil liberty. On the other hand I am glad that he is also on the same wave length with me that in order to fight the terrorist phenomena the most potent weapon is not the arms but the ideological arms. I hope, having this thing in mind, the Government would agree to withdraw the Bill and take to other measures. With these words, I oppose the Bill.

SHRI BIJOY KRISHNA HANDIGUE
(Jorhat): Mr. Chairman, Sir, while supporting the Terrorist and Disruptivities (Prevention) Amendment Bill, I would like to make certain observations of the context in the terrorist situation prevailing in the country. The law for dealing with the terrorists in no doubt necessary and has to be in force. But I do not agree with the hon. Members who suggested the law to be disengaged since it has failed to curb terrorism. It is just like suggesting abolition of criminal laws since incidences of crime have not gone down.

Sir, nowhere in the world any Government can give assurance that terrorism can be curbed within a stipulated time of, say, three or four years. It is a long drawn out process. The situation is more intriguing as terrorism is a state of mind among the sympathisers. We have to bear in mind this thing, yet I feel it is time that we had a fresh look at the terrorists problem. I do understand that no government can allow such a situation to continue. I am, however, inclined to believe that sometimes our assessment of the terrorists situation goes wrong. What ails our assessment is that we have a tendency to generalise the terrorist situation clubbing them altogether. We have to bear in mind that each situation whether it is in Punjab or Kashmir or in Assam or even in Andhra Pradesh, has its own genesis and character and its own background and history calling forth different strategies to handle each situation. Strategies vary from situation to situation. To cite an example, why I have said this is that in the North-Eastern region, whether it is in Assam or Nagaland or Manipur, so far there is no organised in-

vovement of a foreign power. I repeat the words, 'organised involvement of foreign power'. Well, I should make it clear lest I may be misunderstood. What I mean is this. There may be instigation to or sympathy of foreign powers for the terrorists, but so far there is no direct, organised involvement of any foreign power in providing arms, money, materials and particularly, the training as in the case of Punjab or Kashmir. Whatever assistance and help they have had are from the terrorists hailing from the insurgency area of Burma, who are no doubt foreigners, on the Indo-Burma border.

Then again, Sir, in this region, religion has no role to play in terrorism and the situation like that of Andhra is absolutely free from fundamentalists influence. Such an analysis is necessary to assess retrievability of a terrorist situation, for no situation is irretrievable. Speaking positively, each situation is redeemable or retrievable. Redemrability or retrievability is, however, a matter of degrees. Some situations are more retrievable and some situations are less retrievable. I would like to refer to the case of Assam particularly, since a new approach is being tried there. It is quite in the fitness of things that the people in Assam, in the recent elections, have given a mandate for peace and stability. Again, this mandate is not to be misunderstood or misinterpreted. It is not a direct mandate against the extremists, as some of our over-enthusiastic political activists are inclined to interpret. It is a positive mandate, it is a positive mandate for peace and at the same time, the people supported our call given to the extremists in our election manifesto for shunning violence and sitting across the table for a dialogue. So, the mandate is also for our endeavours to settle things with the extremists. Now, that our Party has won the election, we cannot go back upon our commitment. There is, however, a legitimate question whether they would respond to our call. The ball is in their court. We have to look at the call for general amnesty in respect of TADA prisoners in Assam from this angle, though there are hon. Members who have reservations and are quite agitated in the House over it, from

time to time. I would like to quote the conditionalities governing that call for general amnesty:

- (i) the ULFA detenus without any serious charges would be released forthwith. (This is also in accordance with the Congress (I) manifesto);
- (ii) Government would free all other detenus including those involved in heinous crimes and grant general amnesty only if the ULFA responds favourably to the Government's appeal to lay down arms and come to the negotiating table; and
- (iii) If deemed necessary in the interest of a meaningful dialogue with the ULFA, the Government would request the Government of India to consider lifting of the ban on the organisation.

This is what actually we have offered to the extremists. I have already stated that the ball is in their court. I do not agree with those who raise the question that on what basis, the Government can have a dialogue with them since their demand is secession. Let us talk and let us find out as to what alienates them from us. That is the most basic question. Once they spell out, we can consider as to how far we can go in meeting their demands without compromising the question of unity and integrity of the country which is indivisible.

Sir, last year, a team of Cabinet Ministers led by the Deputy Prime Minister of the country including Members of the Opposition camped in Srinagar for days together searching for the right contact who could persuade the militants of Kashmir to come to the negotiating table. Then again, in the case of Punjab extremists, in spite of their demand for sucession, the appeal to them for shunning violence and come to the negotiating table still stands. So, what signal will go to the people of Assam, if the Government

refuses to talk with the militants on the plea that there cannot be any dialogue with them unless they give up their demand to secede? One may jolly well ask the question, what will you do if you fail? Well, we fail, yet we can atleast convince the people of our sincerity of purpose. The ball is, in any way, in their court. We should remember the ultimate appeal of ours as well as that of the terrorists is to the people. Let the people decide.

I am not saying that the Government does not believe in the methods of persuasion. They do belive in it. But however, I am afraid, that sometimes there is not the application of right strategy at the right time. For once the situation is allowed to drift, no method, persuasive or coercive will click. The hard-line may turn out to be counter-productive, too. It may indeed achieve some limited objectives but the alienation will be total. This is the ground reality of the situations wherever we have opted for hard-line. I am not saying that there is no necessity of hard-line and firm action which forms the basis of TADA Act. I do admit that the Government must be armed with the extraordinary situation. What I am emphasising is the rationalisation of the use of such laws.

I am not using the word "humanisation" as it may sound too soft and probably may not go well with many. But the Government has to convince that before it goes for hard-option, all other options have been exhausted and no other option, are left. Then and then alone it can go towards taking coercive action under the Terrorist and Disruptive Activities (Prevention) Act. This aspect has to be borne in mind.

SHRI SOBHANA DREESWARA RAO VADDE (Vijayawada): Mr. Chairman, Sir, I rise to express my disapproval to the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991 and the Amendment Bill that has been brought forward by the hon. Minister.

While introducing the original Bill, the then Government said that they would be able to control the activities of the terrorists

[Sh. Sobhana Dreeswara Rao Vadde]

in just two years. Again it was extended by two years and now again the Government has come forward with a request for extension for another two years.

Actually, there is every possibility of misuse of such laws. Just now Shri Chitta Basu was telling about some instance, the case of one Nirmal Singh who was arrested under TADA Act because he was fighting against the corruption in that area. He was fighting for social justice and against certain misdeed of the people in the Administration. Annoyed with this, he was arrested. There may be other instances in some other States. I am told that in Rajasthan, in Kota area also, people belonging to a particular community were arrested in good number.

I would like to know from the hon. Minister whether a study has been made to find out whether this Terrorist and Disruptive Activities (Prevention) Act has been misused by either persons in the administrative set up or in the political arena to victimise or restrict the activities of their political adversaries. The Government should take care of such things. We have had a very bitter experience earlier. Just to negate a particular judgement of the High Court, the draconian law, Maintenance of Internal Security Act was passed. The persons who fought for freedom of this country who suffered in the jails for several years for the cause of freedom-people like Shri Morarji Desai, Shri Advani, Shri A.B. Vajpayee, Shri George Fernandes and such other people-who shed so much of their sweat and blood for this country were put behind the bars. They were all put behind bars. We had such bitter experience. Several trade union leaders, kisan leaders, and several people were detained under that MISA just to see that the chair of a particular person is not disturbed.

Now this TADA has been brought. I would like to know how far you have succeeded after bringing this TADA nearly four years back and whether the activities of these terrorists and these anti-national ele-

ments have come down in Punjab or in Jammu and Kashmir or elsewhere?

I feel very much because as days pass on, it appears that these activities of the terrorists are increasing and they are acquiring very very sophisticated arms. They are able to use rockets and latest electronic equipment with precision not only in a remote area but even in the capital town of Srinagar in Jammu and Kashmir or in several parts of Punjab.

My submission is, only your arms or your forces will not silence these terrorists. You must weaken the terrorists. You must strengthen the political forces in that State who do not subscribe to these terrorists views.

As Members of Eighth Lok Sabha, we had very bitter experience. The Hon. Rashtrapathi ji praised Barnala ji when he addressed both Houses of this Parliament together in the central hall and called him a very great persons. Just after a few months, he has simply dismissed that Government. Mr. Barnala who was fighting against these terrorists was rewarded with a dismissal, just because you wanted to get political mileage and because you were going to hold elections in Haryana at that time. But you have failed to woo the electorate in Haryana. They had very bitter experience of your tricks. Their democratic rights were vetoed by means of defections. The great was a master of that. He was always negating the people's verdict. As a last resort, by dismissing the Akali Dal Barnala Government, you thought that the people of Haryana will vote to you. But the people of Haryana are quite wise enough and they did not vote to you.

My submission is apart from your military operations, or your operations through Police and other machinery, you must try at the same time to bring a change in Punjab or Jammu and Kashmir or Assam or any other State through a different channel also.

Mr. CHAIRMAN: You mentioned a name

and said he encouraged defections. The name will not go on record.

SHRI SOBHANA DREESWARA RAO
VADDE: I leave it to you.

I hope our present Home Minister Shri Chavanji will seriously make efforts to bring such type of change. The other day he was saying that he will visit Punjab, Kashmir and such disturbed areas and talk to the people and bring change.

I would like to say that the situation in Andhra Pradesh is also not very happy. The hon. Home Minister must be quite aware of it. There also these terrorists are having lot of links with the Naxalites there.

14.00 hrs.

They are receiving very very sophisticated arms. I would like to say that because of their anger, their hatred, their anguish towards the then TDP Government, the N.T. Rama Rao's Government, unfortunately we believe the leaders of the Congress (I) Party must have had some understanding with the Naxalites there who, in turn, helped the Congress (I) party in the 1989 Assembly elections where they were able to see that the Congress (I) won the election and formed the Government. You know the position. The then Chief Minister of Andhra Pradesh was very very lenient towards these Naxalites people and these Naxalites, these very people are having connection with the terrorists, with the anti-national elements. They have procured very large quantity of arms including AK-47 rifles. They threaten the business people, they threaten the industrialists and ask: "Give us one AK-47, give us two AK-47s."

In this connection, I want to tell that the other day also they were able to kill a very large number of police people in Andhra Pradesh because of which the morale of the police forces is also coming down. What I want to bring to the notice of the Government is that not only in the letter, the Bill that is important but your intention, your commit-

ment that is all the more important.

Sir, in Hyderabad City a lot of disturbances had taken place. In the very presence of the police people, a lot of things were done. But no action was taken. Just to bring a change of a Chief Minister, few hundreds of people were killed. What action was taken against such people? Are not such of these incidents encouraging these terrorists and anti-national elements to play their own games when such people in power both at the Centre as well as in the State are left untouched? Such things happened only to just bring a change of a Chief Minister. After all, you can represent your High Command and you have every right to ask for a change. But killing of innocent people, inciting violence in a very large scale are not good things. These things are going to have a lot of impact. So, I appeal to the Government to see that such incidents do not take place again at a larger scale. I hope this Government and especially our Home Minister Shri Chavan will be able to succeed in curtailing these activities of these terrorists. Therefore, I hope that this Government will not require extension of this Terrorist and Disruptive Activities (Prevention) Act, 1987 anymore.

SHRI RAMA KRISHNA KONATHALA
(Anakapalli): Sir, Shri Sobhanadreeswara Rao has just now said that the then Chief Minister of Andhra Pradesh joined hands with the anti-social elements and their response for that. What about his party people joining hands with the Naxalites and addressing the last elections on a common platform? (*Interruptions*)

MR. CHAIRMAN: Let us not involve in this kind of a debate because it is a question of time before us.

(*Interruptions*)

SHRI RAMA KRISHNA KONATHALA:
He is the man who is responsible for the Naxalite Movement in Andhra Pradesh.

SHRI SOBHANDREESWARA RAO VADDE: Not at all It is a well-known fact. (*Interruptions*)

SHRI P.C. CHACKO (Trichur): He has said that you have shared a common platform. You have to answer to that. (*Interruptions*)

MR. CHAIRMAN: On some other occasion you can raise this. Time is very short.

(*Interruptions*)

SHRI SOBHANDREESWARA RAO VADDE: Sir, I am on the verge of concluding my speech with a few words. My colleague has said something. It is a fact that your Congress Government was very very lenient and considerate to Naxalites for reasons best known to yourself because of which it has reached all-out proportions, the like of which never happened in the history of Andhra Pradesh... (*Interruptions*) I will finish now.

Sir, with these words, I hope the hon. Minister will not insist on getting this Terrorist and Disruptive Activities (Prevention) Amendment Bill passed.

[*Translation*]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Chairman, Sir, I rise to oppose this Bill. In the first instance, it was passed for two years. Thereafter, it was extended by two more years. Those two years have already elapsed and now the Government is trying to extend its validity for a further period of two years. All such legislations have been thrust upon the country from time to time. I would like to make a reference to the Preventive Detention Act which was moved and passed in 1952 in this very House. Mr. Kailashnath Katju happened to be the Home Minister at that time. The opposition parties were opposed to that legislation because the congress side was always autositasian, monopolistic, individualistic and it often worked keeping its interest uppermost in its mind. Then Mr. Katju had defended the Bill stating

that it was temporary measure only.

Today, I would like to make a reference to a personality about whom people have different views. Even I myself have no knowledge of his ideology. He is Shri Syama Prasad Mookerjee. He used to be a Member of this House and had opposed the above legislation tooth and nail. I request those hon. Members who support this legislation and used their articulate voices to go through that particular speech of Mr. Mookerjee. In the course of his speech, he expressed this view. Those days, the naxalites and communists had identical views. The communist ideology was not at all acceptable to the Congress, which was pro-capitalist. Though Pt. Jawaharlal Nehru spoke in favour of socialism, yet he worked for capitalists. When Mr. Katju pointed out as to how the communist parties had started a campaign against the above legislation, Mr. Mookerjee replied in the following words:

[*English*]

"I am no admirer of communists. Ideologically, we differ. But so far as preventive detention law is concerned, I regard it as unjustified, illegitimate and against the concept of the rule of law."

[*Translation*]

When the then hon. Home Minister said that it was only a temporary measure, Shri Mookerjee had given the above reply.

[*English*]

"The Home Minister says that this is only a temporary measure."

[*Translation*]

Mr. Chavan, you must think over it.

[*English*]

The Home Minister says that this is only a temporary measure and they will do it only for a short while.

[Translation]

To this Mr. Mookerjee had replied that

[English]

"it would not happen."

[Translation]

Just within four words, he had said that this was unjust. I must use here the words uttered by Shri Lal Krishna Advani who is now the leader of opposition. He said, "With uncanny foresight

[English]

Dr. Syama Prasad Mookerjee says "History gives us numerous examples wherein the Executive once having been armed with large and arbitrary powers, becomes extremely reluctant to give up those powers. The Executive invents excuses and pleads for the continuance of such powers. The very principle of detention without a trial shows that there is something wrong in the country whether in the Government or in the people."

[Translation]

Mr. Chairman, Sir, I am opposing this legislation only because of the fact that right from 1952 all successive Governments have been making excuses that it was only a temporary measure and everything would be all right very soon. It was only an empty assurance. The situation worsened and still worsened and that is how we are now faced with a situation in which we are very much concerned for the country's future.

**THE MINISTER OF HOME AFFAIRS
(SHRI S. B. CHAVAN): Responsibility.**

SHRI GEORGE FERNANDES: He is not capable enough to debate on the concept of responsibility. Where he lacks capability, he must not open his mouth. He will never on this debate. This debate will demoralise him, But we are nor going to spare him.

Today, when this Bill was brought forward in this House, we must think a while over it and then speak. What are the impelling circumstances under which this Bill was brought? It bears Mr. Chavan's signature.

[English]

The Terrorist and Disruptive Activities Act, 1987 (28 of 1987) was enacted to replace the Terrorists and Disruptive Ordinance, 1987 (Ord. 2 of 1987) with effect from the 24th May, 1987 to meet the extraordinary situation created by widespread terrorist violence in many parts of the country.

[Translation]

Just now an hon. Member who came to this House for the first time, stated here as to how the situation has worsened in Kashmir. This legislation was enacted in 1987. The situation in Kashmir did not worsen in 1990. It was introduced in 1987 and then extended for another two years in 1989 with the pretext that the situation had further worsened. As such it was given extension for two more years. There are certain newspapers which make propaganda in favour of the Congress party without any charge. There are several forums where in the Communist Party is also applauded. But why this issue is being raised in this House only? In fact, should we say that a grave situation has arisen in this country following which this Bill has been brought forward? This situation arose in 1990. This is what the Government wants to say under Shri Chavan's signature in this Bill. They must not, at least, defame their leadership, that too when he is a Minister. Do not prove him to be a liar in this House. He says that in order

[English]

to meet the extraordinary situation created by widespread terrorist violence in many parts of the country.

[Translation]

It has now been proved that such a law

[Sh. George Fernandes]

cannot abolish any kind of violence or terrorism. It is essential to learn lessons from it. It is irrelevant to ask this question as to who encouraged the Naxalites and to what extent? Naxalites are treated as per one's convenience. Naxalites are sometimes criticised and condemned and some times praised and used as tools. There may be some difference of opinion on the ideology but so far as question of containing violence is concerned there should be no difference of opinion. There is no room for violence in politics. At the same time, there should be no state terrorism. You have been running the country by unleashing state terrorism since 1947. It is you who have brought the nation to such a situation. Whether it is the Punjab or Kashmir and Assam, North or South the state terrorism unleashed by Government have brought the country to present situation. Yet the Governments are not learning the lesson. I am much worried about it. Why we do not look back at the History of last 44 years? Why should we not accept honestly that Violence is not the way to solve any problem and now we must choose another way. All the world have realised that all the prevention, Detention Laws have proved of no use and brought the country to the present situation even after the 44 years of independence. Mr. Chairman, I think it is of no use. This law is not going to serve any purpose. You are using the law not to abolish terrorism but to give a blow to the democracy in the nation. It will not serve any purpose. This law has recently been discussed in the U.N.O. There must be some discussion on this law and the Ministry should call for the relevant information from Ministry of Law. The discussion on it in the United Nation's Human Rights Committee has been completed. This discussion started on 27th March only four months before. I cannot take the name of your Attorney General who is a big gun, because you will not allow me to do that. Attorney General in his speech has said that-

[English]

"Regarding the provisions against arbitrary

detention and the procedure for hearing the complaints of detainees, none were available under the Terrorist and Disruptive Activities (Prevention) Act."

[Translation]

The Attorney General has admitted in the Human Rights Committee of U.N. that the person arrested under the law.....

[English]

There is nothing in this law which provides against arbitrary detention or procedure for hearing the complaints of the detainees.

[Translation]

This law is not effective but it has been defained all over the world and it has presented India's image as a country where human rights are violated at every level. Your Attorney General has admitted on an international forum. I would like the hon. Minister to take some action specially keeping this fact in view. In the address is U.N. Committee, he further said that.....

[English]

"The Terrorist and Disruptive Activities (Prevention) Act was only a procedural enactment, not a law dealing with preventive detention of creating a new offence. Article 3 of the Act enumerated the specific disruptive activities that would be subject to punishment. One could not have an ordinary criminal court deal with cases of terrorism because of problems such as intimidation of witnesses. Provided the court procedure was properly announced and the bail conditions were appropriate, there was nothing in the Terrorist and Disruptive Activities (Prevention) Act, according to India's understanding of constitutional law and fairness that violated article 9 of the Covenant." The covenant means the international covenant on civil and political rights. "Article 9 dealt essentially with two points: liberty and security of person, and access to the courts." In this

itself he says that there is nothing in this law that enables somebody to safeguard against arbitrary detention or for hearing the complaints of the detainees.

[Translation]

Naturally, the paradox is obvious. The Attorney General failed to defend this Act at an international forum. Mr. Chairman, Sir, you will be surprised and amazed to know as to what he did in the name of defending the act in his addresses to the U.N.O., he said.....

[English]

Specially designated courts are there. "The designated courts established under the Terrorist and Disruptive Activities (Prevention) Act were perhaps the most impartial of all Indian courts because the judges appointed were officials with special experience, independence and fearlessness." These are the words of the Attorney General of India:

[Translation]

It means that Indian Courts are not honest, the appointments are not made honestly. The judges of those courts are cowards. They are not honest, the way of their appointment are made is not fair. There are some courts where we have appointed impartial, gentle good and bold people.

Mr. Chairman, Sir, if by introducing this law our nation is defamed before the international community and the Attorney General has no arguments to defend this law, we can understand the position of this law and the need to stop implementation this law. I will conclude after making one or two points for I know there is one lacuna in it. One hon Member has delivered here a long speech on Kashmir and recounted to us the new history of Kashmir. Mr. Chairman, Sir, if we want to know about the history of Kashmir, we will have to delve a bit deep and study the history prior to independence and for that purpose some people will have to study a lot.

Where does lie the genesis of the present situation in the country. The year 1984 is the genesis when elections were held there and the Government was formed. Elections were held honestly two times in Kashmir, the Kashmiris who know about Kashmir, will be agreed to it. The people of Kashmir believed that only two times, the elections were held honestly, from taxiwalas to hotel boys say the same thing, leave aside the high class people, they may be congress people. In the year 1977, when Shri Morarji Desai was the Prime Minister elections were held honestly for the first time and elections were held honestly second time in the year 1983, in this way elections were held there honestly two times. For the first time Sheikh Saheb was elected and Farooq Abdullah was elected second time and the Government was formed.

Mr. Chairman, Sir, a long speech was delivered here today that why should a political man be posted there. The Congress people are feeling ashamed of mentioning the name of the person. They are feeling ashamed of mentioning the name of the person. They are feeling ashamed of mentioning the name of the political person who is to be posted there but we have certainly had a discussion here on the working of Shri Farooq Abdullah. In 1984, when Shrimati Indira Gandhi was Prime Minister the Farooq Abdullah Government was toppled and it was alleged everywhere that he was working as a Pak agent selling the country. All sorts of political vendetta was employed against Shri Farooq Abdullah at that time. Four days back hon. Members sitting at my right side in the House boycotted the House over a word but the Congress Party had uttered that very word everywhere against Farooq Abdullah.

Shri Farooq Abdullah did not have the courage to fight and within 6 months he withdrew. This was what these people actually wanted. After that under pressure he was compelled to make a compromise. The Congressmen also became a part of his Government. From that day onwards, Farooq Abdullah became a patriot. He then became very competent man full of all the qualities.

[Sh. George Fernandes]

Take shelter under the Congress.....

SHRI G. DEVARAYA NAIK (Kanara): Like Shri V.P. Singh who was not a good man when he was in the Congress but no sooner he left the Congress he became a good man.

SHRI GEORGE FERNANDES: Shelter under the Congress is very vital. There is no 'Pallu' at present, when the person Arrange with a 'Pallu' is inducted, one will have to take shelter under it and everything will be all right. We know that..... (*Interruptions*).....

The Congress party is so big but it cannot work without 'Pallu'. What you are talking..... (*Interruptions*).....

[English]

SHRI P.C. CHACKO (Trichur): You have nothing in Kashmir, why do you talk about that?

SHRI GEORGE FERNANDES: I have nothing in Kashmir: Kashmir is as much part of my life, as it is yours.

SHRI P.C. CHACKO: Your party.

SHRI GEORGE FERNANDES: My party? Your party has nothing in Kashmir. How does that make a difference? We are concerned about the country; we are not concerned about the political parties, here. We are discussing the country. I am very sorry, Sir, that the hon. Member is unable to understand as to what we are debating here. He thinks that we are discussing the size and strength of his party. We are not discussing the size and strength of any political party here. (*Interruptions*)

AN HON. MEMBER: Please speak of the Bill. (*Interruptions*)

SHRI GEORGE FERNANDES: I have been speaking on the Bill. (*Interruptions*)

AN HON. MEMBER: Is this your politics? (*Interruptions*)

SHRI GEORGE FERNANDES: I am not speaking politics. I have not taken any political party's name. It is your party which started this. You have raised an issue and I have to reply to those issues. (*Interruptions*)

MR. CHAIRMAN: Let us not deviate from the subject before us. (*Interruptions*)

[Translation]

SHRI GEORGE FERNANDES: This may be discussed some time later.

Mr. Chairman, Sir, a question is raised here about Kashmir. Terrorism in Kashmir began after the 1987 elections and it began because after compelling Farooq Abdullah to withdraw in 1984 the elections that were held in 1987.....

After the alliance Government was formed there with the help of Congress party, corrupt practices there started. Even in 1987 elections, poll rigging took place. Thus the Government is a way invited terrorism, they created a clear impression that they could not be removed by any other means but only by terrorism.

Therefore terrorism was linked with gun. Some members may cite the example of English people who are said to have wiped out terrorism in Malaysia. But the fact is that the English did not consider Malaysians as English, they could use arms against them and kill lakhs of Malaysians. But so far as our country is concerned the people of Kashmir, Punjab and Assam are the citizens of India; therefore it would be in appropriate to take up arms against them. We cannot kill our own children. We cannot follow the footsteps of English people which they had adopted in Malaysia.

Mr. Speaker, Sir, I would like to make a humble request that this is not the appropriate way to keep the country integrated and remove terrorism. Therefore we are not

at all in favour of enforcing this law. Before I conclude may speak I would like to relate an experience in the House, which perhaps, would not be liked by some of the Members.

There is no certainty as to how, where and in what contexts these laws would be enforced after they are enacted. Would it be appropriate to keep the terrorist Act for two more years under which about 287 youths between the age group of 10 years and 18 years have been kept behind the bars in Rajasthan? They were arrested two years ago in relation to the riots that occurred in Kota. The Home Minister of the State has confessed that 187 of the total youth arrested are innocent. But then he denies to have any power and says that it is only the Central Government that implement the law, or the designated courts can do something but not they. It is merely a small example as to how the law is being used.

While opposing the introduction of this law that day, I quoted examples of a few incidents that occurred in Gujarat. I had referred to a Reliance Textile Factory the owner of which- I would not like to mention his name-met the Chief Minister and succeeded to get the workers arrested under the same terrorist Act and forced them to end their strike. They were agitating for their rights. They resorted neither to violence nor to terrorism. If at all they indulged in violence then this Act is not to be applied in this connection. 18-19 workers were arrested and our Organisation had to spend thousands of rupees to seek the help of Supreme Court to get them released after several months.

Mr. Speaker, Sir, about two thousand persons, have been arrested in Gujarat under this law. I would like to know from the hon. Minister as to how many persons are in prison. This law is being misused in Haryana also. A statement has been issued by Shri Bansi Lal who was the strongest Minister of Defence in the Congress Government during emergency days and had remained the Chief Minister of Haryana just a few years back. He says-

[English]

"A case under TADA was registered against Shri O.P. Jindal, a leading industrialist of Haryana, Uttar Pradesh, West Bengal, Maharashtra, Madhya Pradesh and Karnataka. Shri Jindal is a Member of Haryana Vidhan Sabha also. He was elected on Haryana Vikas Party ticket. The Haryana Vikas Party ticket. The Haryana Chief Minister is trying to pressurise Shri O.P. Jindal by abusing TADA and by stopping his business and by arranging assault against Shri O.P. Jindal by anti-social toughs. The Hon'ble Chief Minister wants Shri O.P. Jindal, MLA to defect to Congress (I). Similarly, he had got raids organised at the house of another HVP MLA Shri Lehari Singh and got his power connection disconnected."

[SHRIMATI MALINI BHATTACHARAYA in the Chair]

[Translation]

How the law is being enforced. He has proposed to extend its period for two more years. Shri Bansi Lal says in that context.

(Interruptions)

[English]

SHRI A. CHARLES: Madam Chairman, will be place all these papers on the Table of the House? (Interruptions)

SHRI GEORGE FERNANDES: Yes, I will lay them on the Table of the house.

"One Col. Risal Singh (Retd.), Security Officer of Shri O.P. Jindal was also arrested on the same day on false accusations under TADA."

[Translation]

Which law is proposed to be enacted? Do you talk of the same law under which Shri Risal Singh was arrested under TADA four days ago, while the arrangements are being made to arrest Shri Jindal, is it the same law

[Sh. George Fernandes]

under which two thousand workers have been arrested in connection with the launching of public agitation or is it that under which about 278 innocent youths in the age group of 10 to 18 years have been kept in prison in Rajasthan for the last two years? What I say in regard to the Congress applies to the Governments of Uttar Pradesh and Madhya Pradesh equally. I am very sorry to narrate the incident happened in Ghaziabad. A discussion on Special Privileges took place in the House. It relates to Shri D.P. Yadav we are not concerned to his past or present. But we unable to understand why an advocate who fights his case has been arrested under National Security Act and kept in prison....(Interruptions) whatever his name may be but he is Yadav. Does it mean that he has to be arrested if he hits the judge in the chair.....(Interruptions) So far as human rights are concerned we would neither compromise with our party nor with anybody else. We would fight for human rights not only in Bihar or in our country but in the whole world. So far as BJP is concerned, we will have separate discussion if they have a role to play. The advocate threw the chair on the judge but he was arrested under National Security Act, Then what is the use of having the Indian Penal Code?.....(Interruptions) Listen. If high officials like District Magistrate DSP or SP etc. behave in an improper manner and then are put behind the bars under National Security Act, then all the advocates will become idle.....(Interruptions) These persons have wasted may time by interrupting me constantly. Shri Nehar Singh Yadav is the arrested advocate. I would like to know on what basis that person has been arrested under National Security Act. Similarly, I have a complaint against the Government of Madhya Pradesh. Shankar Guha Niyogi, a Union leader from Chhattisgarh has been fighting for the cause of workers for the lat twenty years. The motive of their agitation is not only to get better wages but to keep away the workers from taking alcohol, cigarette etc. also so that their money is utilized in providing better education to their children. Shankar Guha Niyogi is the revolutionary

person who has linked these things with the agitation. He was summoned by the District Magistrate and then kept in prison for months together. The Government of Madhya Pradesh started the externment procedure and it appears that this process is going on in at least 5-6 districts in Chhattisgarh region. He has been facing these circumstances only because he is working for the upliftment of workers and poors. Political differences may be there, differences are there in every field, even within the political parties. I would appeal to the Members of all the political parties, as Dr. Shyama Prasad Mukherjee had appealed in 1952 that they should not support the enactment these laws. Ideological differences with the communists would persist but these laws should not be passed in their name, the Government should not accept the demand of communists and Executives/bureaucrats for extending its period. Earlier too, Armed Forces Special Powers Act was extended by six months. Pandit Govind Ballabh Pant who was the then Minister of Home Affairs had sought six month this time to deal with the problem of terrorism. It has been a long period of 32-33 years from 1958 to 1991. Armed Forces Special Powers Act meant to be enforced only in Nagaland has been enforced throughout the country. Therefore, I would request the Members of the House not to support it. Even the Members of Congress party should act according to their conscience and oppose it. This Government would not last long and if some other party having a negative attitude succeeds to form the Government it would put the members of Congress party also in prison. Therefore my submission is that the Minister of Home Affairs should withdraw it and agree that the Government was at fault, it would be better to follow a new path. Otherwise the members of Congress Party should have the right to cast their votes according to their own conscience so that they may oppose it.

[English]

SHRI A. CHARLES: I wonder whether hon. Member knows that the life of the Preventive Detention Act was extended when

his leader, Shri Morarji Desai was the Prime Minister of this country.

SHRI GEORGE FERNANDES: He is misleading the House Sir.....(Interruptions)

SHRI LOKANATH CHOUDHURY (Jagatsinghpur): Well, I spent four years in Jail, because of the Preventive Detention Act;

[Translation]

SHRI RAM NAIK (Bombay North): Madam Chairman, Shri George Fernandes has opposed the Bill and referred to two incidents that occurred in Uttar Pradesh and Madhya Pradesh. In the beginning I would like to submit that if what he has said is true then it would not be proper to apply TADA for that purpose. However I doubt that the information he has gathered in regard to at least Madhya Pradesh is true. The extemtment procedure and the reference of TADA in it

SHRI GEORGE FERNANDES: I had referred to National Security Act.

SHRI RAM NAIK: You referred to extemtment procedure.

Madam Chairman, it is very simple and clear to understand that there is vast difference in the circumstances related by Shri Shyama Prasad Mukherjee at present under which the terrorists have been trying to disablise the country, there is a vast difference between the political situation at that time and the political situation at present. A reference to Human Rights Commission has also been made. But when innocent but passengers were pulled out from the buses and gunned down in Punjab or Kashmir every Human Rights Commission has also been made. But when innocent bus passengers were pulled out from the bases and gunned down in Punjab or Kashmir every Human Rights Commission was silent and nobody raised a question as to why these innocent persons are being killed. You did not even mention this touching point throughout your

speech. About two lakhs of Hindus left their homes in Kashmir, did they leave at their own will. It did happen only when they found it difficult to stay there. It is very unfortunate that such circumstances were created there. If is the need of the hour that the country should come forward to deal with the situation. People should be aware that this struggle is against those who are playing with the security of the country and working against the welfare of a common man. Therefore, theoretically I would like to support this Bill. I would also like to submit that when the Bill was introduced the terrorist activities were restricted only to Kashmir and Punjab but afterwards these activities encircled. Assam, Tamilnadu and finally the house of the Minister of Home Affairs. So much so that even the house of his daughter was attaced 15-20 days ago. Therefore, terrorism cannot be checked merely by talking of Human Rights. I agree to this and remain cautious in this respect because it is the only factor that has created a threat to the security of the country. Therefore, I support this Bill.

Madam Chairman, usually the opposition opposes the Ordinance if it is promulgated at the time of elections But when this ordinance was promulgated Lok Sabha was not constituted. This aspect has been realised just now, and we must take it into consideration. So far as I know this law was enacted in 1987, special courts were set up. First of all, I would like to know how many courts were set up in actual? The figures which have been provided reveal that it takes about Rs. 7 lakh to set up one court. But the courts do not function the way they should. I feel that for months and even years together the persons have been arrested and were kept in prison but no case has been filled against them. Therefore, I would like to know how many courts have been set up so far, and how many cases have been dealt by these courts with in the last four years. After all, are the courts doing any work or not? It is an important matter. It is altogether a different thing whether the terrorists have any regard for the laws or not. It needs to be assessed. The Government implements

[Sh. Ram Naik]

laws. Have they succeeded in keeping a check on the terrorists? I feel that they have not. The terrorists abducted Doraiswamy and have been giving ultimatum to the Government time and again that his hands would be chopped off and at times they say that his feet would be cut. Why the Government of India is not issuing any ultimatum to them? If the person who is helping in getting the terrorists arrested is assaulted, will the Government tolerate it? Is the hon. Home Minister capable of issuing such an ultimatum on behalf of the Government?

[English]

MR. CHAIRMAN: (a) Please conclude quickly because we have to pass three other Bills.

SHRI RAM NAIK: I will take five minutes only.

[Translation]

Alongwith this a public campaign should be launched for this. The hon. Minister of Home Affairs should also consider this move. Shri Sunil Dutt is not present in the House. He had supported Khalistan. One and a half years ago, when somebody raised this issue in the Rajya Sabha, the entire House stood up against that Member. But in this House a prominent Member of their party is supporting and propagating the idea of Khalistan. Therefore, I say that there is a need to launch a public campaign for this purpose. Then it will have to be seen whether it can be helpful in bringing the terrorists under control. I feel that if the Government can do so, the most essential thing will be that.....

AN HON. MEMBER: He did not support Khalistan.

SHRI RAM NAIK: You were not present when it was raised in the House.

[English]

AN HON. MEMBER: He did not support

Khalistan. He was only telling that the name of Punjab be changed to Khalistan. I was sitting close by.

[Translation]

SHRI RAM NAIK: He said that the name of Punjab should be changed to Khalistan. Does the Government feel that by changing Punjab's name to Khalistan, the problem would be solved? Perhaps they don't realise the gravity of the situation caused by terrorism in Punjab. As such, there is a need to make everybody aware of it. There is a need to keep the public informed about it. I made this point in this context. If the Government really wants that the terrorists are to be brought under control, the first thing it has to do is to see that they do not get any help from Pakistan.

[English]

Your first attempt should be to see that all these terrorists should not get any aid from Pakistan.

[Translation]

In order to implement the same, the Government will have to create a separate security zone on a five kilometre strip along the border where nobody could have any access. If it can be done the aid that is coming from Pakistan could be stopped. With that, the aid that they are getting from foreign countries will also be stopped.

Shri George Fernandes made a mention of two things. One is that the laws against terrorists should be enforced. The Government has called for information in regard to all such cases from the States. At the moment, there is a case with me. In Maharashtra, nearly 156 people have been arrested under TADA. There were major Hindu-Muslim riots in my area in December-January. Shri Sunil Dutt's constituency falls on the same line and my constituency is adjacent to it. TADA has been applied to people who were awarded 6 month's simple imprisonment.

[English]

This criminal procedure code is sufficiently capable.

[Translation]

But it seems that police Officers favour imposition of TADA. Because, the police finds it easy to apprehend a person under TADA. For this, prior permission of the court is not necessary. People can't resist arrest. Therefore I urge that information may be called for from all the state governments about the number of persons who have been arrested under TADA in their States. People cannot raise their voice against the police. As such the Criminal Procedure Code should be made applicable to them. It should be done in all cases. Otherwise, it would be considered as misuse of TADA. If TADA is misused, we cannot extend our support to it. Therefore, I would like to emphasize that there should be no misuse of TADA in future.

There are some laws for the smugglers also. If smugglers are to be arrested, please arrest them. But particular laws should be made applicable in particular cases.

[English]

If you apply it to the selected terrorists, then the effectiveness of this Act can be implemented.

[Translation]

In this way, the Government as well as the country could get some relief. Otherwise, if somebody commits theft or some other minor crime, he should not be apprehended under TADA. It is not good. In view the above, I would like to request the Government to collect information from the State Governments in which TADA has been misused. TADA should be made applicable to terrorists only. If it is done, our supporting to Government could be of some use. With these words, I conclude.

[English]

MR. CHAIRMAN: There are two or three more Members who want to speak. So, I would request them to take only two or three minutes. Otherwise, it would not be possible to finish it.

Shri Lokanath Choudhury.

SHRI LOKANATH CHOUDHURY: I have got an objection. I have given my name to speak. We belong to a group. My name has not been called.

MR. CHAIRMAN: It is now being called.

SHRI LOKANATH CHOUDHURY: I oppose this Bill. I oppose it because it will not solve the problem; it has not solved the problem during the last so many years; it has added to the problem.

My feeling is that this allotment was for two years. Now four years have passed. We are going to extend it for another six years. Shri George Fernandes has said, it has its origin from the inception of the Indian States. We are those unfortunate people who had been kept in jails for years together. I had spent four years under Preventive Detention Act. Even when I was released by the High Court, I was arrested from the jail gate. I am opposing it no doubt. After passing of this Act, it has not brought down terrorism. It has gone to a greater magnitude. So, that we must realise. Terrorism is a big thing which is now threatening our national unity and it has two faces.

The first thing is, in the changing international scenario there are countries that have tried to destabilise us, they even encourage terrorism and I think the international arms dealers who, while the world is going towards peace, are encouraging terrorism, especially in the Third World countries. So, how can the Third World countries check terrorism? That is a big question before us. It cannot be checked in a traditional way by making an enactment. For this, what is required is to see where we have failed.

[Sh. Lokenath Choudhury]

Just a few minutes before, Shri George Fernandes was telling us about Kashmir and many other people have spoken about Kashmir. We all know that the Kashmiri Mohammedans had decided to remain in India and that is why Kashmir is a symbol of Indian secularism. Today, why has Kashmir gone in this way? Without examining our hearts, the major political party which I think is capable of ruling this country is bringing this Act. They should now think over what is leading to this and without doing that many instances have been given.

I am sure this enactment will be used against those people who are agitating, to further the anti-people policies of this Government. This Government is going in a different way putting all the burdens on the people. The people will definitely resist this Act, the working classes will resist it because this will not be used against terrorism. It will not be considered that the demands of the working people will be fulfilled. Not to further their demands this Act will be used.

So, it will be dangerous to hand over this power to this Government. Because, this Government, unless it changes its attitude, the attitude of involving the people and corrects the mistakes that have been committed in the past forty-five years, will use it in a wrong way.

So, Madam, as others have already said it, there are already enough laws and the laws can take care of themselves or the other offences. There is no necessity for this Act.

The second point is that a person who will be booked under this Act, he has to prove his innocence. Nowhere in the international law this is being done.

So, under the circumstances, Madam, without taking much time, I would say that it is high that this Government thinks of administrative reforms, economic reforms and if they do not do it, they will use this Act which

is obsolete and which is anti-people.

So, with these words, I say that this enactment which has been there is this country right from the inception of the Republic, which instead of checking terrorism, has made terrorism a national phenomenon should be abolished and should be withdrawn taking the experience of the last 45 years into account. No doubt, international smuggling is there. That also contributed to terrorism. There are different Acts for that. The Preventive Detention Act and other Acts are there. They do not help checking terrorism but are detrimental to the interests of the country and the people's interests.

I, therefore, request the Hon. Home Minister to withdraw this Act and he should not ask for any further extension of it as it is helping the growth of terrorism in this country.

SHRI E. AHAMED (Manjeri): Madam Chairperson, I do not want to take much time of this August House at present. I would just like to observe certain points, which comes in the course of the implementation of this statute. It may have necessitated in an extraordinary circumstances. But these are the laws, I am of the view, that we shall not extend as far as possible.

The provisions of this TADA have been misused on many occasions. The indiscriminate use of TADA have landed many of the innocent people in jail. In Rajasthan, more than 150 persons from party have been taken into custody when there was a communal riot; and all of them were innocent and they have not been granted any relief. The bail cannot be granted under TADA. And all these people were not even able to approach the Supreme Court for justice. So, I should say, it is the bounden duty on the part of the administration to take the cautious step in applying the provisions of TADA against the citizens.

I know, the Home Minister and the Government, know the history of our people. We have a history opposing the Roulett Act.

We have a history opposing the black laws of the Britishers. But, unfortunately, we are now in a position, where we have to seek the administrative relief under the shadow of such draconian laws like TADA. Therefore, I appeal to the Home Minister to instruct all those who are authorised to deal with the provisions of this law in a most cautious way and he must also see that there shall be no abuse of the provisions of TADA against the citizens of this country.

And in this regard, Madam Chair person. I may also mention as to what is provided under Section 9, 10 and 11 of TADA, wherein the appointment of designate courts are a mandatory provision. I also venture to ask the Home Minister, as to how many such designate courts we had appointed in pursuance of Section 9 of the Act.

I would also request the Home Minister to review the cases of those who jailed, those innocent people who have not been given a fair trial, who have not been granted bail because there is no provision of bail, and they have been languishing in jail for more than two years.

Again I may say one thing more about the application of TADA in places like Kashmir. I have already mentioned this the other day in this House. We may have many statutes to deal with the situation. It may be very much, I should say, necessary in the circumstances we are placed. But only these laws will not bring peace and tranquillity or the desired effect.

Therefore, I once again appeal to the Home Minister and the Government of India to take all necessary steps to instil confidence in the people of Kashmir; to take all steps to avoid the confrontation between the security forces and the masses in that valley; and also to send a message of peace and goodwill to the people of Kashmir.

With these few words, I conclude.

15.00 hrs.

SHRI P.C. CHACKO (Trichur): I rise to,

support this Bill. I am sure that we are going to be dubbed by some of the Members in the Opposition that we are supporting this draconian law or whatever-it is. This Bill which is before the house, is only to replace the Ordinance. The circumstances why this Ordinance was brought out, are all stated in the Statement of Objects and Reasons. I only want to deal with one or two aspects which have been discussed during the course of the debate. I want to cite a quotation which was made in this august House in 1977 in this connection:

"Extraordinary situations warrant extraordinary legislations."

I want may hon. friend, Mr. George Fernandes, to recollect as to who made this statement in this House. The statement was made by no less a person than the Law Minister in the Morarji Desai Government, Mr. Shanti Bhushan. While justifying the MISA and the Ordinance brought before the House, Mr. Shanti Bhushan Said that extraordinary situations warrant extraordinary laws. We are not for supporting any draconian law. We are not happy for extending any law of this sort for that matter. But can any member including Mr. George Fernandes, deny that the country is facing an extraordinary situation? The tallest leader of the political arena of this country, the most beloved leader of this country, Shri Rajiv Gandhi fell to the bombs of the assassin. Today all the leaders, both from ruling as well as Opposition, are facing threats from terrorists. This is unfortunately the situation in the country.

The hon. Member, Shri George Fernandes, was the Minister Incharge of Kashmir. Public memory is so short that they forget many things. The Vice-Chancellor of Kashmir University and the General Manager of HMT fell to the bullets of the assassins. At that time, the Government in this country headed by Shri V.P. Singh. Shri George Fernandes had flown to Chandigarh to receive the dead bodies. The plane carrying the two dead bodies went on circling in the sky for the Minister to reach there. The angry relatives of these people did not allow the Minister to land see the bodies. How did it

[Sh. P.C. Chacko]

happen? I am not blaming anybody. Terrorism has become a part of society and we are all there to face it.

This TADA is meant for tackling this problem only. All the criminal laws, IPC, Cr. P.C which are in force there, I am not saying that these are ineffective. But these are inadequate to meet certain contingencies, certain situations which this country is facing. Without understanding that, when Mr. Mani Shankar Aiyar was speaking on Kashmir, Mr. George Fernandes was getting virtually restless. Every one has to put his head together to find a solution to terrorism which we are facing in this country in the form of Tamil Tigers in Tamil Nadu, Naxalites in Andhra Pradesh. I do not want to mention the name of any member in this House. But there are Members who went to talk to the Naxalites of Andhra Pradesh at the time of elections to get their support. This is not the way to deal with the problem of terrorism. Terrorism is developing in the country beyond the control of all the political parties. Every one is responsible in various degrees. When Mr. V.P. Singh was heading the Government and Mr. George Fernandes was the Minister, this law was there and it was also used during those times. I can cite hundreds of examples. But they are trying to get political mileage out of it. This is shameful. No saner person, no level-headed person in this country can oppose the extension of this law. For giving legal to the Ordinance this Bill has been brought forward. The Members instead of supporting this Bill, may be with reservations, they are opposing it and making political speeches attacking this Government. In this country Governments are coming and Governments are going. Congress may not be the permanent ruling party. But nobody should use this opportunity for mud slinging on the Congress party.

I want every one to support this Bill. That is what I am suggesting. Shri Chitta Basu and some other hon. Members have said that any misuse of this law should not happen. I fully agree with that. I request the hon.

Home Minister, Shri Chavanji to see that this law is not being misused in any part of the country. The misuse had taken place not only where Congress Party is ruling but it had also happened in West Bengal and in Tamil Nadu and many other places. My request is that it should not be misused by anybody at any place. We have to have special legislation to deal with this menace of terrorist and disruptive activities, otherwise every institution, every individual, every political party, all are in danger, the very system is in danger.

Madam, I very strongly support this legislation and request the hon. Home Minister to see that within this time limit whatever maximum possible can be done, must be done, not like the earlier occasions when some steps were taken by the earlier Governments. But, for that we need the cooperation of everybody, all the political parties in this House. But, that cooperation is not seen during the discussions on this debate. That is unfortunate. I request that all parties should extend their whole-hearted support in regard to this Bill. I am not saying that everything will be alright within two years time. I do not say that terrorism can be contained in two years time. But we have to take substantial steps to curb terrorism within this period to the maximum possible extent. With these words I once again support the Bill and I conclude by thanking the Chair.

[Translation]

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Madam, Chairman, I thank you for giving me an opportunity to speak.

I shall make a lone submission in connection with the present discussion on Terrorists and Disruptive Activities (Prevention) Bill. The hon. Minister said that this bill had become necessary so as to contain terrorism. But I would like to tell him that in 1952 also a law was enacted in which a culprit could be detained without trial. That time there was only one party which fought for the poor and it was the C. P. I. This law was enacted to detain the workers of that party.

The hon. Minister is fully aware that at that time there was no terrorism worth the name. Even after enacting such a law, the Government did not succeed in throttling the voice of the party which was fighting for the poor. Today, we find that people with arms are moving freely here and there. I would like to know from the hon. Minister how it can be checked by legislation. It can't be checked by legislation nor has it yet been checked. A law to stop child labour has already been enacted and amendments have also been made therein from time to time. There is provision for rigorous punishment but despite all this, the Government has not been able to stop child labour, and the people engaging children in work have not been rounded up so far.

Today, the main problem faced by the country is that of terrorism. First of all, we shall have to look into the genesis of terrorist. Unless the doctor is able to diagnose the cause of ailment, not medication can cure it. Similarly, we shall have to study the root cause of terrorism. With the spread of terrorism the country has gone to dogs. We shall have to identify the person who gave rise to this malady in the country. Some politicians commit all misdeeds in order to save their chair. With the result the poor and middle class people of the country suffer a lot. Please look into this matter.

A number of measures are taken in the name of security, such as, black cat commandos which have been deployed for V. I. P. security. All these things have been provided for security but with all this, killings continue to take place.

I appreciate the measure that has been taken to combat terrorism in Assam. The Chief Minister of Assam said that first he would hold a dialogue with the terrorists and then release them. The most important thing is that a political situation should be established there first of all, and it is the duty of each party to create such a political environment so that all these terrorist activities could be stopped. Without creating a political environment, such activities can't be stopped.

How this political atmosphere can be created? For that, we shall have to see who is the person who has joined hands with the terrorist group and whose son has taken up arms. Only those people have taken up arms who have been deprived of development.

It is a matter of shame that when development works are taken up in a village either by the MLAs or some body else, works like providing drainage and developing roads in streets are done in the colonies of elite class people. The poor, the Harijans, the Backward classes and the labourers remain completely deprived of such developments because no such development work is taken up in their colonies. Then it is quite but natural that they will take recourse to terrorism. They will take to arms. You can make a survey in this regard and find that my assessment is true. If the Government does not go into all these factors and goes on making laws, it will serve little purpose. What I believe after my experience in politics, is that the problem cannot be solved unless you extend developmental work to those poor people who have not met me under it so far, who have not been able to get anything from it so far, They are living the life of animals.

There are still some villages in our area having a population of 500 to 1000 where there is no Primary School even for Primary Education. I have been writing to all the prime Ministers, since I came Parliament, but so far nobody had bothered about it.

You can frame the laws and break them. You may make laws to oppress the opposition. When the opposition will launch an agitation and this type of laws will be made applicable against them. The police applies this law in case of pickpockets and ignores the court, So enacting laws is not enough.

I am opposing this Bill because the Government violates human rights by this Act. Terrorism cannot be checked by this Act. It is the Government which spreads terrorism everywhere, whether it is in Punjab, in Kashmir, in Assam or in Andhra Pradesh. It is the Government which has toppled all

[Sh. Ramashray Prasad Singh]

the elected Governments there because of its parochial politics. The Chief Minister whom they dubbed as an-antinational became their friend after 4 hours. In next breath he became a nationalist. This is their policy.

I oppose it strongly. Please do not bring forward such a legislation. Terrorism should be wiped out after creating a political environment. If terrorism is not checked there can be no peace in the country.

With these words, I conclude.

[English]

MR. CHAIRMAN: The Minister may now reply.

...(Interruptions)...

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Madam, Chairman, I had moved an amendment for eliciting public opinion in this regard.

MR. CHAIRMAN : Be seated for the time being.

SHRI GIRDHARI LAL BHARGAVA: It is my right. I won't get any opportunity after the Minister replies the debate.

[English]

MR. CHAIRMAN: The earlier Bill has lapsed and with that all the amendments also have lapsed.

...(Interruptions)...

[Translation]

SHRI GIRDHARI LAL BHARGAVA: I had moved an amendment to repeal the ordinance but I was not present in the House that day. So it could not be taken up. But I have moved an amendment for electing

public opinion in this regard.

[English]

AN HON. MEMBER: He was not present at that time.

MR. CHAIRMAN: This Bill has been passed by the Rajya Sabha.

...(Interruptions)...

[Translation]

SHRI DAU DAYAL JOSHI (Kota): Both of us have moved this amendment.

SHRI GIRDHARI LAL BHARGAVA: I was not present in the House that day when amendment to repeal the ordinance was taken up. It is all right. But I have moved an amendment for eliciting public opinion for which I should be given an opportunity to move it....(Interruptions)

[English]

SHRI RAM NAIK: I will explain so that there will not be any misunderstanding. The position is like this: that he had given the Resolution for circulating the Bill. But he is probably not aware that subsequently this Bill was withdrawn in the Lok Sabha and as that he had given Resolution to amend that particular Bill which was first presented to the Lok Sabha. Since that was withdrawn, his amendment also, naturally stands withdrawn.

MR. CHAIRMAN: This has been explained to him. Thank you.

THE MINISTER OF HOME AFFAIRS (SHRIS.B. CHAVAN): I have heard with rapt attention the views expressed by some of the hon. Members and the way they have given the examples. I have also heard them in order to find out as to how far I will be able to utilise this opportunity of replying to the debate. I specially believe in the fact that this issue of terrorism or extremism cannot merely be solved by guns. I have stated this publicly.

I have no hesitation in reiterating the same here that we will have to have a political dialogue first and then try to understand the grievances of the people. I have no objection in meeting some of those who have real grievances and understanding their problems and applying the correctives wherever necessary. In other cases I find that there are people who in fact, are being encouraged by powers across the border. Still I have kept my door open in order to make them feel that I have not closed the door. I have kept my mind open.

I was very keen to go tomorrow to Jammu and Kashmir for two days in order to see the situation myself. But a decision has now been taken that the issue of atrocities on harijans is going to be discussed tomorrow and that is why, unfortunately, I have to cancel my tomorrow's visit to Jammu and Kashmir. I will definitely utilise some other time for that purpose in spite of the fact that I know for certain that these areas have large number of infiltrators who have come in and they are getting all the encouragement from Pakistan. They are training them, they are financing them and they are giving them most sophisticated weapons. There is no doubt about it. But at the same time it becomes my responsibility to go to that area and find out as to what exactly is their grievance.

I remember the period when I was the Deputy Chairman of the Planning Commission. Planning Commission is in charge of giving Central assistance to the State Governments. But Jammu and Kashmir was one of the States where not only the Plan assistance was given but even the non-Plan assistance was also given. 110 per cent of the Plan assistance was what the Jammu and Kashmir State received. I recollect the details. I am not referring to a very far-flung period. This is of the period 1982-1986. That was the time when this thing happened. I had some kind of a little quarrel with the then Chief Minister of Jammu and Kashmir Shri Farooq Abdullah. I said that for non-Plan assistance the Planning Commission was not the proper authority and he had better to

approach the Finance Ministry and thereafter the Prime Minister for any special assistance. I further said that as Deputy Chairman of the Planning Commission it was my responsibility to see that all the State Governments are being treated equally without making any kind of distinction and I could understand the category in which the State is and if any special concession is required, it could be given.

So, on that account at least — I remember over five years back, now might be, the moneys which were given have not been utilised for the purpose for which the moneys were given. If that be the position, certainly there is a case to find out as to whether they have constructed the roads, whether they have constructed the irrigation projects, whether they have constructed the hydro-electric projects where a tremendous potential exists, and there is a disparity between the hydroelectric and thermal power station in our country; hydroelectricity has to be encouraged, so that potential exists in that area and that is why we have taken special pains to see that external assistance which is given for this purpose is utilised for two major projects in Jammu and Kashmir with a view to see that not only the potential is utilised, but also it will provide an opportunity for people to get some kind of employment. Even HMT was also specially located in that area because the amount of pollution which we find in other parts when compared to Jammu and Kashmir, the State of Jammu and Kashmir stands on a better footing for location of the factory of that nature and that is why it was located there. So about the problem of unemployment, in spite of this, I cannot possibly claim that the problem of unemployment is over. There are a large number of young people who are still asking for employment and we have to see that some kind of employment is being provided so that they are not lured by the powers across the border. I must, in this context, specially reply to several points which were made.

First of all, let me give the example where the hon. Members took objection to

[Sh. S.B. Chavan]

the fact that people have been arrested under TADA and misuse has been made. That is the general complaint that I have heard. I do not know, I cannot possibly say, in individual cases how far they were correct in apprehending those people under TADA, in fact they should have utilised the regular Acts which are prevalent there, why is it they have used TADA for that purpose is a matter which I will have to find out. But unless I get the instances from the hon. Members, it is going to be very difficult. Two or three cases were cited — one is the Ahmedabad case, another might be some other case which I don't recollect, but to say that TADA gives unrestricted power to the State Governments is not correct. No doubt there is a Central Act, but the powers have been delegated to all the State Governments. Before bringing this Bill in the shape of an Ordinance, all the State Governments were consulted in the matter whether they require extension of this Bill or not, and I must inform the House that there are almost 16 to 17 States and specially to hon. Members from which ever area they have come, I can say without any fear of contradiction that those State Governments have agreed for extending the powers which they enjoy under the TADA Act for two more years. But that does not mean that unrestricted power also rests with the State Governments. They have notified areas, they can see the situation themselves and if there is any misuse, I was asked as to whether the new designated courts have been constituted as promised under the Act. The information that I have is this. Total number of designated courts constituted so far is 187 and the number of persons convicted by the courts is 318. If I have to give the figures the hon. Members will be surprised to see that there is no provision for giving the bail, but I cannot possibly say that the courts do not have the inherent powers; the courts have the inherent powers, and they have been utilising them all right. I can give you the number of persons arrested. The number of persons who were arrested is 35,538 for the country as a whole.

SHRI INDRAJIT GUPTA (Midnapore):
What is the period?

SHRIS. B. CHAVAN: This figure relates to the period from 1985 to 31.3.1991. The total number comes to 37,538; the number of persons bailed out is 26,533. That means, almost three-fourth of the people have been given the bail by the courts. The number of persons who have been convicted is 318. These figures are quite clear.

Now, I will refer to hon. Member Shri George Fernandes's speech where he referred to the speech of the Attorney General. He himself has quoted that in the Human Rights Commission, the Attorney General was pleased to state that there is no mechanism provided under the Act. He quoted only one portion of it and later on he himself stated that there are 187 designated courts. Under these courts, special care is given to see that three judicial officers are being appointed and in all cases arrests have been made by the State Government and they are referred to these designated courts. In these designated courts, they have to scrutinise the whole thing and they have to come to their own conclusion as to whether the powers have been properly utilised or not. It does not mean that they are enjoying unrestricted powers as some hon. Members wanted this House to believe and specially Shri George Fernandes. He knows very well, because he was also responsible for supporting the steps. When he went to Jammu and Kashmir, he had seen things for himself and that is why I must bring to his notice that there are designated courts which are supposed to scrutinise all cases where people have been arrested under TADA. I cannot possibly claim here unless I find out from the States concerned; I cannot make a sweeping statement that it had not been misused at all. It might have been misused in a few cases then and there. We have given very clear instruction in this regard that you cannot misuse it. If you have to misuse the powers given to you under very extraordinary circumstances, for ordinary people, you should use the ordinary laws prevailing in the country.

SHRI GEORGE FERNANDES: Will the hon. Minister yield for a minute?

SHRI S.B. CHAVAN: Will you allow me to complete? If you have any question, certainly I am prepared to answer it later.

Madam, he quoted only one portion and in the other portion, he himself contradicted by saying that the designated courts are there. But he wanted to utilise that portion for merely pointing out that as if the courts are not as brave or as dispassionate, as objective as these designated courts are. I do not think that anybody claims that way. But there is no denying the fact that people are not prepared to come to the designated courts. They have to be given special protection. Unless you give security to those who appear before these courts, it becomes almost impossible for giving justice also. This also is a fact which we cannot hide from this House. So, these are the circumstances in which these designated courts function and that is why Members can do an evaluation of the work done under this Act. If any correctives are required to be added, certainly we will be happy to do that.

Now, I must refer to the US Ambassador in Pakistan who seems to have made a statement that on this Jammu and Kashmir issue, there is going to be a war between India and Pakistan. Another statement was made by Mr. Kaufman who has recently gone there. He had come to me and I have explained the entire position. He has gone there, seen things for himself and thereafter he made a statement that it is not a bilateral issue; it has international implications. These two statements are very revealing as to what exactly is the policy which these Governments have been following.

As far as the U. K. Government is concerned, the other day, I referred to the statement issued by the U. K. Government in which it said — in Kashmir the question of plebiscite does not arise. The position has been made absolutely clear. Those terrorists and extremists living in England have been told: "Hereafter, you cannot expect any kind of asylum in England." But it is very unfortunate because while the Conservatives seem to be favouring the steps that we are

taking on Kashmir affairs, it is the Labour Party — in fact, I have my own doubt whether Mr. Kauffman... (Interruptions) I would call him "Kauffman". Whatever his name, I am not bothered about his name. I am bothered about the statement he has made.

SHRI GEORGE FERNANDES: He is the shadow Foreign Minister of England. You should know his name. He met you. You cannot just toss around and say, you do not know. (Interruptions) Do not make fun of it.

SHRI S.B. CHAVAN: You would like to utilise everything for politicising. I know, You do not mean anything else. (Interruptions) You have had your full say in the matter. You are politicising it. I am still making the charge. You are politicising the whole issue and you are trying to take political advantage out of it. There is no doubt about it. I have no hesitation in saying that.

Please for God sake, try to understand the major issue. The major issue is, the Government in U. K. make a policy statement that they would not like to support any terrorist activities. On the global basis, they have made the statement. They have made their position absolutely clear that so far as Jammu and Kashmir is concerned, the question of plebiscite does not arise. This is their statement.

But Mr. Kauffman who belongs to the Labour Party goes there and makes a statement. I am aware of the fact that in his own constituency, there are a number of Jammu and Kashmir inhabitants who happen to be his electorates. That is quite understandable. It is not only exactly for this reason but for broader reasons, he must have come here in order to assess the situation himself. He says, "Under the Shimla Accord, we thought it was a bilateral issue between India and Pakistan; they should negotiate, come together and try to find a negotiated settlement." Instead of that, now he goes to the length of saying, "I am the shadow Foreign Minister and it might be after one year I would become the Foreign Minister of U.K." He says, "I do not think, this

[Sh. S.B. Chavan]

is merely a bilateral issue. This issue will have to be internationalised." That is the kind of statement, if what has appeared in the Press is correct, he seems to have made. If he has said so, then this is contrary to the foreign policy, contrary to the declaration which the Government of U. K. itself has made. On that issue, at least, I have no doubt that the Government there has a different position. Mr. Kauffman who came here made a different kind of statement. Because of certain hon. Members were making a reference to it, I had to reply to this point.

About the second point which was raised by some hon. Members — U. S. Ambassador in Pakistan is saying, there is going to be a war between India and Pakistan on the issue of Kashmir. I do not know what exactly he meant. Is it his information. He also knows the fact that we have the information and evidence that the Pakistan Government is not only helping Jammu and Kashmir and Punjab militants but it is training them and financing them.

They have been giving them all kinds of weapons and we can show them evidence which we have in our possession. In spite of that, if he feels that there is going to be some kind of a confrontation or war on this issue, I am surprised, why he should have said this.

I have not been able to go through the entire statement myself. This was the reported statement and, that is why, I would like to reserve my comments on it. I would not like to react immediately because I would like to understand what exactly he wanted to convey and then certainly I will have to react because it is not an ordinary statement. He is, after all the representative of the US Government, and that is why it is absolutely necessary for us.

SHRI SAIFUDDIN CHOUDHURY (Katwa): He has also said that Kashmir is not an integral part of India.

SHRI S.B. CHAVAN: That is what he

might have said. I have not gone through the statement myself. Let me first go through the statement myself and thereafter I will try to react.

SHRI HARI KISHORE SINGH (Sheohar): It is quite surprising that you have not gone through the statement.

SHRI S.B. CHAVAN: I have made a statement of fact. I have not gone through it. I have said I have not gone through it. You need not be surprised about it. I will definitely go through it myself.

SHRI HARI KISHORE SINGH: You are the Home Minister and the Home Minister is expected to go through it.

SHRI S.B. CHAVAN: I know that it is my responsibility. I do not deny that. But, at the same time, you must also give me some kind of a margin that after all I am also a human being. I can work to a certain extent. Somehow, I have not been able to go through the statement and, that is why, on this important issue, in fact, I would like to go through the statement.

SHRI INDERJIT (Darjeeling): You must get an authentic copy of the statement before the Government reacts.

SHRI INDERJIT GUPTA: You should not make such a statement on the floor of the House that you have not read the statement. It is quite unnecessary. Why did you admit here that you have not read the statement?

SHRI S. B. CHAVAN: It is a fact. That is why, I have not reacted. I could not get the time to read the papers.

SHRI BASU DEB ACHARIA: This is a statement which was made yesterday.

SHRI S. B. CHAVAN: You are expecting a debate on the Harijan issue today. I have to prepare myself also for that. (*Interruptions*) Very kind of you. You are trying to help me out. I have a number of papers with me. I would like just to take out those papers,

read them myself and then react as to what exactly are the repercussions.

SHRI INDERJIT: We have to appreciate the candidness of the Home Minister.

SHRI S. B. CHAVAN: There are two or three issues about which I would like to refer because this is just an intervention. I am not replying to the debate. The reply will be given by my hon. colleague Shri Ram Lal Rahi.

One point which was raised was about Mr. Doraiswamy. I do not know why people seem to be interested in Mr. Doraiswamy's so much. In fact, this is being utilised by Mr. Doraiswamy's captors. They are utilising it by saying that there is a Government which can be pressurised by a number of parliamentarians either in the Rajya Sabha or Lok Sabha. All these issues are being raised and, that is why, they got some kind of an encouragement.

I can tell you according to the sources and according to the information which has been supplied by the sources, with which we have been dealing with this matter, that Mr. Doraiswamy is hale and healthy. His hands have not been plucked. Some hon. Members say that instead of releasing the person, You are trying to find out where the hand has been thrown out. In fact, there is no truth in what has been stated by some hon. Members. That is why, I would request you kindly to wait for some time.

SHRI BASU DEB ACHARIA: How long are we to wait?

SHRI S.B. CHAVAN: You will have to wait till they release him. I cannot give any other answer.

SHRI BASU DEB ACHARIA: You do not have any answer.

SHRI S.B. CHAVAN: I do not have any answer. If you can possibly suggest some answer and tell the House that this is the method by which we can possibly get re-

lease of the person, certainly I would like to utilise the same.

We are trying our level best through different channels in order to see that he is being released as early as possible.

These were the major points which were raised. I don't think I should dilate any more. I request the House to kindly cooperate with the Government in this matter. There is a Punjab and Jammu & Kashmir issue; there is a Naxalite issue; there is an Assam issue; there is an LTTE issue. These are the issues which, in fact, threaten the very unity of the country. That is why irrespective of which Government is in power, if we were not to cooperate in the interest of the future of the country, then, of course, we will be facing an unprecedented situation, which, I would beg of you, to kindly bear in mind. Forget all your political differences; come together and see that we are able to save the prestige of this country. That is the goal which is before us all. With this, possibly, I have done it.

SHRI RAM NAIK: What about the security-belt on the border?

SHRI S.B. CHAVAN: Regarding security-belt, I would say in fact, it is a long area. I have got information. I will give you. The total length-this is Indo-Pakistan border in Punjab state is about 556 Kms. Fencing which has been completed so far is about 356 Kms. There are some observation posts which have been erected and rest of the area, we feel, will get adequate resources to see that this area is completed.

MR. CHAIRMAN: Shri Ram Lal Rahi, would you like to add something to this statement?

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHIRIRAM LAL RAHI): Yes, Madam Chairman, the hon. Minister has dealt in detail with the issues raised by the hon. Members, the apprehensions expressed by them and the suggestions put forward by them. I think there is not much to add further. I think, when

[Sh. Ram Lal Rahi]

I had introduced this Bill, I had indicated the reasons as to why this Bill was being introduced again for extension of time. The entire House is aware of the fact that there are many areas and many States where people are under constant fear and threat of terrorism. Fear and terror has struck many places throughout the country. I felt that the existing ordinary laws were not adequate enough to curb the terrorist and separatist activities and that is why a need was felt to introduce this Bill again.

Some apprehensions have been expressed that this Act is being misused. The centre had advised the State Governments that whenever this Act is invoked it should be done after thorough investigation and utmost care. This should never be invoked against political activists or Trade Unions.

SHRI HARI KISHORE SINGH: It should not be invoked or it will not be invoked?

SHRI GEORGE FERNANDES: Will Jindal be arrested under this Act?

SHRI RAM LAL RAHI: The innocent should never be troubled or harassed under this Act.

Madam Chairman, the State Governments have also been advised that in case some incident of misuse comes to their notice, high level officials must thoroughly investigate the matter and then take suitable action. I don't think it is being misused anywhere, but if we receive a complaint to this effect, we would look into it and direct the State Governments not to misuse the law. We would like that such an environment is created in the country which is free from fear and terror so that there is no need to further extend this Act. We need the cooperation of one and all in this regard. I hope that the people of this country, the political parties and their leaders and the Members of this House would help in creating such an atmosphere and the country would be free from fear and terror so that we could move on the

path of progress and development. With these words, I conclude and move that the Bill be passed.

MR. CHAIRMAN: Shahabuddinji, would you please like to make a statement?

SHRI SYED SHAHABUDDIN (Kishanganj): Madam, I do not wish to withdraw my Resolution. I wish to say something.

Madam Chairman, nothing that I have listened to from the hon. Ministers or from the spokesmen from the official benches gives us any justification for extending the life of this black Bill. I sympathise with the hon. Minister. I think, I should sympathise with the country; I think we deserve to have a more well-informed Home Minister.

I have also come to this conclusion after listening to this discussion that there is so much focus on Jammu and Kashmir as if the House is being led to believe that this piece of legislation was enacted primarily in the context of the Kashmir situation. My hon. colleague Shri George Fernandes has stated before the House that this is not a fact. But, in fact, if the emphasis today is on Jammu and Kashmir, then judging from what the hon. Minister has told us, I think, there is a justification for having a separate Ministry for Jammu and Kashmir Affairs.

The history of legislation, the history of the last four years tells us and reminds us of this great couplet from the Urdu Poet Meer:

"Mareje Ishk Rehmat Ki,
Marz Badhta Gaya Jyon Jyon Dava Ki."

With every passing year after this Bill has come into existence in order to curb terrorism and disruptive activities, we see indeed a gradual rise in the incidence of terrorism which is authenticated by the statistics provided by the Government itself, some on the floor of the House and some in the other House, that every year the number of people arrested under this Act has risen sharply.

Madam, TADA is a draconian law. As I said, it is a derogation of the Fundamental Rights. It is a violation of the human rights. This is explicit from the very fact that the Government intended it for a given period of time, for only two years and then they came for another two years. And again they have come for another two years, because they are themselves conscious of the fact that such a black piece of legislation has no business to be placed on the statute book for all times.

My various colleagues here have stated on the floor of the House, how this Bill goes against the very spirit of the rule of law. The onus is on the defendant, on the detainee. The matter has been placed outside the normal jurisdiction of the high court. There is almost no-bail provision. The authorities are not obliged to file a charge-sheet even for one year.

If a detainee wishes liberation; wishes to prove his innocence, he is asked to come right upto Delhi, to the Supreme Court. How many of us can afford it? These are the reasons, why this Bill has been misused by the authorities. According to the data that I have got here, the hon. Minister has stated that 16 States have asked for its extension. I am not surprised. Once the Executive gets hold of a power, history tells that it never wishes to let it go and, therefore, I would request the hon. Minister to tell us which are the States which have asked for extension. I would also like the hon. Minister to inform the House about the break-up-State-wise black law upto 31st of March. He has given us a cumulative figure of something like 37,000. But, I went, into figures given in this House and in the other House after one year of legislation was in force and then again in 1989 (March or June) and I found that initially there were only five States which had crossed the triple digit. i.e. Andhra Pradesh-640; Gujarat 1,623; Jammu and Kashmir only 141; Manipur, a small State-279 and Punjab, of course, was at the top at that time with a figure of 3,563. One Year later, five more States entered this distinguished gallery of three figures. Andhra Pradesh reached by

March 1989 a figure of 2,143; Gujarat, 4491. All the public criticism and condemnation that Gujarat authorities had received did not deter them from tripling the number of detainees over the next one year. This is the sort of misuse that we are talking about, Madam Chairperson. Gujarat figures went upto 4,491; Jammu and Kashmir again, was pretty low i.e. from 141 to 669; Manipur-654, and Punjab-7,969, just in two years of its promulgation.

But now, five more States have entered the ground league Assam-1,270; Haryana-275, Maharashtra, the very civilised State from which the hon. Ministers comes-379; and U.P. 130...*(Interruptions)*

SHRI NIRMAL KANTI CHATTERJEE: One of the detainees under TADA in Haryana includes one M.L.A.

SHRI SYED SHAHABUDDIN: No, I am talking about the figures i.e. only upto 1989. Unfortunately, even in West-Bengal the number of total detainees was 540. Now, the total figures in the country have risen to 37,500 and the hon. Minister himself has said that nearly three quarters of them have been released on review. Does he not stand self-condemned?

Madam Chairperson, they have arrested 37,000 persons, just out of the blue; they took in anybody they wished and then they were forced to release three quarters of them. That itself shows what a widespread misuse of this Law has taken place in this country. I would like, therefore, the hon. Minister to let us know the State-wise break-up of the total number of persons detained; the total number of persons released on review; the total number of persons prosecuted and the total number of persons finally convicted. I dare say that a very very minute fraction of the total number of persons detained have been finally convicted by a Court of Law or their convictions have been endorsed by the highest Court of the land. Is that itself not a condemnation of the manner in which the State Governments and the Central Government have applied this Law?

[Sh. Syed Shahabuddin]

The entire debate has focused on Kashmir, I have a very interesting fact. It is being made out, as if all that we are doing to fight terrorism in Kashmir and we must fight terrorism in Kashmir and on that the country is with you Mr. Home Minister is being done by virtue of this Act and if the Act is taken out of the Statute book the Government will be absolutely powerless. That is not the correct picture. In Kashmir, we have the Local Public Safety Act; we have the Disturbed Areas Act, we have the Armed Forces Special Powers Act and over and above that we have got the TADA. What are the figures that the Government has given to us. The Government itself have admitted in a reply on 1.1.1991 that the total number of persons arrested in Kashmir was 4,593, of which 2,044 are under TADA.

That means nearly 55% are under other laws. Of these what is more interesting—it is a very revealing fact—is that the Government admitted in reply to another question when they were asked as to how many terrorists had been arrested in Kashmir, the answer was 124. It means that out of the 4593 persons arrested by the authorities in Kashmir, out of the 2044 arrested under TADA, the Government itself admitted that only 124 were terrorists. What are all the rest? Were they innocent persons? Were they guilty? Were they secessionists? In what manner were they acting against the law? Therefore, a case to be made out as if the entire future of the country, the entire destiny of Kashmir depended on the continuance of this piece of legislation on the Statute Book is a disgrace to the democratic conscience is antipathetic to the rule of law, absolutely out of line from what the hon. Minister has said here.

The Government admitted in reply to the Rajya Sabha Starred Question No. 388 on 27.3.1988- incidentally asked by Shri Advani, who was then in the other House—yes, some misuse has taken place. The Government said, but we have sent them guidelines. We have not been taken into confidence about the guidelines. I would like to ask the hon. Minister through you Madam

Chairperson if he wants us to give him another extension of two years he should convince us of the bona fides of the Government by placing the text of the guidelines before the House.

It has been stated by the Rajasthan Government that they are unable to release the Kota detainees; 178 of them, according to the State home Minister. (Interruptions)

[Translation]

SHRI DAU DAYAL JOSHI: You are talking about the detenus of Kota. I would like to tell you that when I won the elections, four bombs were thrown on me in broad day light. I fortunately escaped unhurt, but a person who was accompanying me got killed.

SHRI SYED SHAHABUDDIN: I am glad to know that you escaped unhurt.

SHRI DAU DAYAL JOSHI: Do you want to advocate the cause of those who throw bomb on the winning candidate. About 100 bombs were found at a place in Kota. Do you want those people to be released even after knowing that they were involved in such serious cases of throwing of bombs.

[English]

SHRI SYED SHAHABUDDIN: I am pleading the case of those whom the hon. Home Minister of Rajasthan on the floor of the Rajasthan Assembly declared that they have no charges against them; 178 of them. And that they were being detained because the Home Ministry of the Government of India had not approved their release and their case was pending with the Home Minister. It is their case that I am pleading. If the Government cannot even produce a charge-sheet, if the Government cannot even frame the charges, it has no business to detain a citizen for a prolonged period of time. (Interruptions)

[Translation]

SHRI DAU DAYAL JOSHI: You should tell us as to how those who are involved in

such a case can be released? (*Interruptions*) They are threatening us that they would take the case to court. That is why we have not been able to complete formalities in respect of charge sheet.

[English]

SHRI SYED SHAHABUDDIN: I am not dealing with the Kota matter at all. I think the hon. Member is absolutely mistaken. He does not know what I am talking about. (*Interruptions*)

MR. CHAIRMAN: Please address the Chair.

SHRI SYED SHAHABUDDIN: I am making a general point. Is there a regular machinery for consultation between the Central Government-because this is the Central piece of legislation-and the State Governments to whom the power has been delegated, to review the TADA cases, say regularly every three months? This is the point I am making so that innocent persons do not continue to be under detention. I am afraid, no such machinery has been set up. We are all of the view and we have said so on the floor of the House that there are enough arrows in our legal armury to deal with criminal cases.

16.00 hrs.

Even the Supreme Court in giving a judgment on a TADA case opined that crimes like murder, kidnapping which are all listed in the Statute Books defined under the IPC, should not be handled under Special Laws and they should be handled under the normal law of the country. This is the direction of the Supreme Court.

Therefore, what I am saying is that merely to say a special situation calls for special laws and apply those laws in an indiscriminate manner against trade unionists, against political workers, against political adversaries, surely, this is not a power that we can give to any Government in a democracy.

Madam Chairperson, Government have not pleaded any special case. They have not convinced us, although I have listened carefully to the hon. Minister. He says, terrorism cannot be fought with Police methods.

MR. CHAIRMAN: Shri Shahabuddin, please conclude.

SHRI SYED SHAHABUDDIN: I will take just one minute. I am yet to hear from the Government or any spokesman of the Government, whether they have got any plans; whether they have taken any initiative for bringing about a political solution to the problems in any disturbed part of our country. I think, the Government has the look of being, appears to be- permit me to say mentally insolvent, physically paralysed, psychologically blank and politically bankrupt. Merely giving added powers to this politically bankrupt Government, which in two months time has not yet come before the country or before the parliament with any plan of action, will be a crime against human rights; will go against the very spirit of the Indian Constitution; will go against the rule of law; will go against the spirit of democracy, in whatever way we understand it.

Unless the Government comes to us with a clear-cut strategy of counter-terrorism as to how they are going to fight it, with a political plan as to how they are going to restore order, I do not think that we should grant what the Government is asking.

Therefore, Madam Chairperson, I appeal to the House that this Resolution should be passed and this ordinance should not be approved and should not be enacted.

MR. CHAIRMAN: Shri Shahabuddin, are you not withdrawing your Resolution?

SHRI SYED SHAHABUDDIN: No Madam, I am not.

MR. CHAIRMAN: The Resolution moved by Shri Shahabuddin will now be put to the vote of the House.

The question is:

"That this House disapproves of the Terrorist and Disruptive Activities (Prevention) Amendment ordinance, 1991 (Ordinance No. 5 of 1991) promulgated by the President on the 2nd May, 1991."

Those in favour will please say 'Aye'.

SOME HON. MEMBERS: Aye.

MR. CHAIRMAN: Those against will please say 'No'.

SEVERAL HON. MEMBERS: No.

MR. CHAIRMAN: I think the 'Noes' have it. The 'Noes' have it.

SOME HON. MEMBERS: The 'Ayes' have it. We demand a division.

MR. CHAIRMAN: Let the lobbies be cleared.

MR. CHAIRMAN: Before I put the Motion, I would like to read out as to how the voting has to be done in the House for the benefit of the Members. A push button set containing pilot light and three push buttons mustard button for 'Aye', red button for 'No' and a black button for 'Abstention' together with a push switch suspended by a wire has been provided at the seat of each Member. When the machine is made active on announcement by the Chair 'Now Division', a gong sounds which is the signal to the Members to cast their vote. Each Member has to press the push switch and then operate one of the three buttons, that is, for 'Aye', 'No' or 'Abstention'. according to his own choice. The push Switch and the push button must be kept pressed simultaneously until the gong sounds for the second time after ten seconds. A pilot lamp on the push button switch will glow simultaneously with the pressing of the button and the push switch, and the glowing of this light indicates that the vote has been recorded by the equipment.

If a member is not able to record his vote

by pressing the button, he may please stand up at his seat and record the vote through slips to be given to him by the Division Clerk.

Now the Lobbies have been cleared.

MR. CHAIRMAN: I shall now put the Statutory Resolution moved by Shri Syed Shahabuddin to the vote of the House.

The question is:

"That this House disapproves of the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991 (Ordinance No. 5 of 1991) promulgated by the President on the 2nd May, 1991."

The motion was negative

MR. CHAIRMAN: I shall now put the Motion for consideration to the vote of the House.

The question is:

"That the Bill further to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

MR. CHAIRMAN: Now the House will take up Clause-by-Clause consideration of the Bill.

MR. CHAIRMAN: The question is:

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

The motion was adopted

Clauses 2 and 3 were added to the Bill

MR. CHAIRMAN: The question is:

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

The motion was adopted

Clauses 2 and 3 were added to the Bill.

MR. CHAIRMAN: The question is:

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

The motion was adopted.

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

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

"That the Bill be passed."

MR. CHAIRMAN: Motion moved:

"That the Bill be passed."

(Interruptions)

[Translation]

SHRIGEORGE FERNANDES: Madam Chairman, while opposing this bill I would like to get an assurance from the hon. Minister that no MLA or political worker would be arrested under this Act, which is being done at present...*(Interruptions)* ...The rest of the aspects have been covered almost. I want a specific assurance directly in respect of Haryana. The case relating to Haryana has already been raised in the House. I would like that the arrests that are being made there at present under this Act should be stopped forthwith. We will not allow that.
(Interruptions)

[English]

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): We had raised this question earlier also but the Minister was not present at that time. Therefore, this Act cannot be utilised against the elected Members of the Legislative Assembly and we had got this kind of an assurance from the Minister. And in fact, this had happened in Haryana.
(Interruptions)

SHRI BASU DEB ACHARIA : We are

not convinced by the replies given by both the Ministers. So far as misuse of TADA is concerned, when this Bill was passed in 1987, an assurance was given in this House when we opposed this Bill. The assurance given was that it was meant for a period of two years only and that the problem of terrorism can be solved within that two years. But again it was extended for another two years, i.e., in 1989 the Government extended the term of the Act for another two years. And we are not convinced as to whether or not this Act will be confined to only Jammu and Kashmir, Punjab and Assam where the problem of terrorism is there. We do not find any new approach in this Government to tackle terrorism either in Jammu and Kashmir or Punjab or Assam. They want to arm themselves with TADA in order to curb the trade union movement, peasant movement, labour movement and other democratic movements.

We have seen how this TADA was used by certain State Governments. Now, the TADA is being used by the State Government of Haryana. So, we want a categorical assurance from the Home Minister...

*[Translation]**

SHRI RAM PRAKASH CHAUDHARY (Ambala) : Why are you speaking about Haryana? Why don't you speak about West Bengal where people have been mercilessly beaten to death and public is being harassed.

[English]

SHRI BASU DEB ACHARIA: This Act was used in West Bengal only for one month when there was the GNLF Movement in Darjeeling. We want an assurance that this will not be used against the political opponents in Haryana.

[Translation]

SHRI RAM PRAKASH CHAUDHARY: There is peace and prosperity in Haryana. Crime and murders are routine affairs in

[Sh. Ram Prakash Chaudhary]

Bengal. Why do you speak about Haryana only and ignore West Bengal?

SHRI BASU DEB ACHARIA: There is nothing of this sort in Bengal.

[English]

Nobody has been arrested in West Bengal under TADA. We must be assured that this Act will not be misused used against the political opponents in Haryana. Those innocent persons who are under arrest under this Act either in Rajasthan or in Gujarat or anywhere else, they should be released. We want a categorical assurance from the Home Minister.

SHRI RAM NAIK : I will ask just one clarification. This Act should not be applied to those who are neither terrorists nor extremists. This is the demand of the House. A specific reply must come from the Government. The Government should give guidelines that this Act should exclusively be used for extremists and terrorists only and no one else.

SHRI SHAHABUDDIN SYED: I appeal to the Government that even at this late hour they may either withdraw the Bill or at least give a categorical assurance that every single case of TADA detainee shall be reviewed by the Home Minister within a period of three months.

SHRI K.P. UNNIKRISHNAN (Badagara) : The Bill which seeks to strengthen the long arm of the State against terrorist and disruptive activities can only be specifically used for that purpose. Anything else would be a malafide exercise of power, as we have seen in the State of Haryana, where elected representatives of the people have been detained under this Act. This sort of thing, whether it is in West Bengal or Haryana or Kerala or anywhere else, cannot be allowed to happen. That is not the purpose of this Bill

as the Parliament understands it. We want a specific assurance from the Home Minister. As the guardian of the Statute—and the House trust him as the guardian of the Statute—he should see to it that it is not misused anywhere.

SHRI SOBHANADREESWARA RAO VADDE : Madam, I seek a clarification.

MR. CHAIRMAN: No please. We cannot go on like this.

SHRI SOBHANADREESWARA RAO VADDE : I will seek only one small clarification. When we have brought certain information to your notice, you told us that you are not having ready information. While replying, You have now said that you will see to it that this Act is not misused. But I submit one point. When such instances where those innocent people not connected with terrorist and disruptive activities are arrested, are brought to your notice, you must see to it they are released immediately. And after their release, will the Government take necessary steps against those persons who are responsible for arresting these innocent people, so that this Act will not be misused by others in the Years to come? Kindly assure us on this.

(Interruptions)*

MR. CHAIRMAN: I am not allowing you

(Interruptions)*

SHRI S. B. CHAVAN: Madam, I would like to assure this hon. House that TADA will be used specifically for the purpose for which the Bill has been enacted. It cannot be used against the political opponents, it cannot be used against the normal activists of the trade unions. We will certainly not use it against the trade unionists. But if they have committed any offence which can be considered 'as' attracted to the provisions of 'TADA', then of course I cannot help it. But the guidelines will again be issued to all the State Governments

to see that this Act is not misused and it is not that with a view to either finish the political opponents or to stop the political activity in a particular area or normal trade union activity in certain areas that this Act has been used. It is not for that purpose that this Act has been used. It is not for that purpose that this Act has been used. It has to be used only for the purpose for which it has been enacted for. (*Interruptions*)

SHRI SRIKANT JENA (Cuttack): There was a definite allegation in Haryana that the legislators are being arrested. The Home Minister should respond to this.

[*Translation*]

SHRIMADAN LAL KHURANA: Madam, large scale arrests have been made in Gujarat under this Act. An 80 year old lady and a minor child have been arrested under this Act. I would like to know from the hon. Minister whether an inquiry would be conducted into it?

SHRI S. B. CHAVAN: Madam, If I receive a written complaint about it, I would certainly get an inquiry conducted into it. I will let you know as to what action could be taken in the matter if the Act has been misused. (*Interruptions*)

[*English*]

SHRI NIRMAL KANTI CHATTERJEE: What about Haryana? We want a specific reply about Haryana. We are raising it since this morning. You give us an assurance.

[*Translation*]

SHRI DHARAM VIR SINGH (Bhiwani): Madam, just one week back an MLA of Haryana Vikas Party as also 25 other men were arrested under TADA. (*Interruptions*)

[*English*]

MR. CHAIRMAN: Please let us have some order in the House. We cannot go on with this for ever.

MR. CHAIRMAN: The question is:

"That the Bill be passed."

Those who are in favour may say 'Aye'.

SEVERAL HON. MEMBERS: 'Aye'.

MR. CHAIRMAN: Those who are against may say 'No'.

SHRI GEORGE FERNANDES: No.

MR. CHAIRMAN: I think 'Ayes' have it 'Ayes' have it.

SHRI SRIKANT JENA: 'Noes' have it. Let there be a Division.

MR. CHAIRMAN: Let the Lobbies be cleared—

Now, the Lobbies have been cleared. The question is:

"That the Bill be passed".

The Lok Sabha divided

Ayes

16.32 hrs.

Division No. 2

Ahmed, Shri Kamaluddin (Hanamkonda)

Aiyar, Shri Mani Shankar (Mayiladuturai)

Anthony, Shri Frank (Nominated Anglo-Indian)

Autulay, Shri A.R. (Kulaba)

Arunachalam, Shri M. (Tenkasi)

Asokaraj, Shri A. (Perambalur)

Bhakta, Shri Manoranjan (Andaman & Nicobar Islands)

Bhandari, Shrimati Dil Kumari (Sikkim)

Bhardwaj, Shri Paras Ram (Saranggarh)	Hooda, Shri Bhupinder Singh (Rohtak)
Bhonsle, Shri Prataprao B. (Satara)	Inder Jit, Shri (Darjeeling)
Chacko, Shri P.C. (Trichur)	Jakhar, Shri Balram (Sikar)
Chaliha, Shri Kirip (Guwahati)	Jeevarathinam, Shri R. (Arakonam)
Chandrakar, Shri Chandulal (Durg)	Kahandole, Shri Z.M. Malegam)
Chandrasekhar, Shrimati Maragatham (Sriperumbudur)	Kamat, Shri Gurudas (Bombay North East)
Charles, Shri A. (Trivandrum)	Kamble, Shri Arvind Tulshiram (Osmanabad)
Chaudhary, Shri Ram Prakash (Ambala)	Kanithi, Dr. Viswanatham (Srikakulam)
Damor, Shri Somjibhai (Dohad)	Karreddula, Shrimati Kamala Kumari (Bhadra-chalam)
Deka, Shri Probin (Mangaldoi)	Kaul, Shrimati Sheila (Rae Bareli)
Dennis, Shri N. (Nagercoil)	Khan, Shri Aslam Sher (Betul)
Deshmukh, Shri Anantrao (Washim)	Khan, Shri Ayub (Jhunjhunu)
Dev, Shri Sontosh Mohan (Tripura West)	Konathala, Shri Rama Krishna (Anakapalli)
Dighe, Shri Sharad (Bombay North Central)	Kumarmangalam, Shri Rangrajan (Salem)
Digvijaya Singh, Shri (Rajgarh)	Kurien, Prof. P.J. (Mavelikara)
Farook, Shri M.O.H. (Pondicherry)	Lakshmanan, Prof. Savithri (Mukundapuram)
Fernandes, Shri Oscar (Udupi)	Marbaniang, Shri Peter G. (Shillong)
Gaikwad, Shri Udaysingrao (Kolhapur)	Mathew, Shri Pala K.M. (Idukki)
Gajapathi, Shri Gopi Nath (Berhampur)	Mathur, Shri Shiv Charan (Bhiwara)
Gamit, Shri Chhitubhai (Mandvi)	Muralee Dharan, Shri K. (Calicut)
Gavit, Shri Manikrao Hodlya (Nandarbar)	Murthy, Shri M. V. Chandrashekara (Kanakapura)
*Girija Devi, Shrimati (Maharaj Ganj)	Naik, Shri G. Devaraya (Kanara)
Gogoi, Shri Tarun (Kaliabor)	Naikar, Shri D. K. (Dharwad North)
Gomango, Shri Giridhar (Koraput)	Narayanan, Shri P.G. (Gobichettipalayam)
Gounder, Shri A. Senapathi (Palani)	
Handique, Shri Bijoy Krishna (Jorhat)	

901	<i>Stat. Res. re.</i>	SRAVANA 21, 1913 (SAKA)	TADA Amend. Bill 902
		<i>disapproval of TADA Amend. Ord. &</i>	<i>As Passed by R.S.</i>
Nawale, Shri Vidura Vithoba (Khed)	Singh, Shri Arjun (Satna)		
Odeyar, Shri Channaiah (Davangere)	Singh, Shri Dalbir (Shahdol)		
Padma, Dr. (Shrimati) (Nagapattinam)	Singh, Shri Manphool (Bikaner)		
Pandian, Shri D. (Madras North)	Singh, Kumari Pushpa Devi (Raigarh)		
Panigrahi, Shri Sriballav (Deogarh)	Sodi, Shri Manku Ram (Bastar)		
Panja, Shri Ajit (Calcutta North East)	Soundaram, Dr. (Shrimati) K.S. (Tiruchengode)		
Patel, Shri Praful (Bhandara)	Sridharan, Dr. Rajagopalan (Madras South)		
Patel, Shri. Shravan Kumar (Jabalpur)	Sultanpuri, Shri Krishan Dutt (Shimla)		
Patel, Shri Uttambhai Harjibhai (Bulsar)	Suresh, Shri Kodikkunil (Adoor)		
Patil, Shri Prakash V. (Sangli)	Swamy, Shri G. Venkat (Pedapalli)		
Patil, Shri Uttamrao Deorao (Yavatmal)	Tara Singh, Shri (Kurukshetra)		
Prabhu Zantye, Shri Harish Narayan (Panaji)	Thangkabalu, Shri K. V. (Dharmapuri)		
Rai, Shri Kalp Nath (Ghosia)	Thomas, Prof. K.V. (Ernakulam)		
Rajaravivarma, Shri B. (Pollachi)	Thomas, Shri P.C. (Muvattupuzha)		
Rajeswari, Shrimati Basave (Bellary)	Tindivanam, Shri K. Ramamurthee (Tindivanam)		
Ramchandran, Shri Mullappally (Cannanore)	Upadhyaya, Shri Swarup (Tejpur)		
Ramamurthy, Shri K. (Krishnagiri)	Urs, Shrimati Chandra Prabha (Mysore)		
Rao, Shri J. Chokka (Karimnagar)	Verma, Kumari Vimla (Seoni)		
Rao, Shri V. Krishna (Chikballapur)	Vijayaraghavan, Shri V.S. (Palghat)		
Rawat, Shri Prabhu Lal (Banswara)	Vyas, Dr. Girija (Udaipur)		
Reddy, Shri Gongula Prathap	Wasnik, Shri Mukul Balkrishna (Buldana)		
Reddy, Shri R. Surender (Warangal)	Williams, Shri R.G. (Nominated Anglo-Indian)		
Sahi, Shrimati Krishna (Begusarai)	NOES		
Sharma, Shri Chiranjit Lal (Karnal)	Acharia, Shri Basu Deb (Bankura)		
Shukla, Shri Vidhyacharan (Raipur)	Advani, Shri Lal K. (Gandhi Nagar)		
Sidnai, Shri S. B. (Belgaum)	Ansari, Shri Mumtaz (Kodarma)		

Baitha, Shri Mahendra (Bagaha)	Hossain, Shri Syed Masudal (Murshidabad)
Balayogi, Shri G.M.C. (Amalapuram)	Jena, Shri Srikanta (Cuttack)
Barman, Shri Palas (Balurghat)	Joshi, Shri Anna (Pune)
Barman, Shri Uddhab (Barpeta)	Joshi, Shri Dau Dayal (Kota)
Berwa, Shri Ram Narain (Tonk)	Kalka Das, Shri (Karolbagh)
Bhargava, Shri Girdhari Lal (Jaipur)	Kamal, Shri Shyam Lal (Basti)
Chakraborty, Prof. Susanta (Howrah)	Kanodia, Shri Mahesh (Patan)
Chatterjee, Shri Nirmal Kanti (Dum Dum)	Kapse, Shri Ram (Thane)
Chaudhary, Shri Rudrasen (Bahrain)	Kashwar, Shri Ram Singh (Churu)
Chavda, Shri Harisinh (Banaskantha)	Khanduri, Shri Bhawan Chandra (Garhwal)
Chhatwal, Shri Sarraj Singh (Hoshangabad)	Khurana, Shri Madan Lal (South Delhi)
Chikhalia, Shrimati Bhavna (Junagarh)	Kunjee Lal, Shri (Sawai Madhopur)
Choudhury, Shri Saifuddin (Katwa)	Laljan Basha, Shri S. M. (Guntur)
Das, Shri Anadi Charan (Jaipur)	Malik, Shri Purna Chandra (Durgapur)
Das, Shri Dwaraka Nath (Karimganj)	Manjay Lal, Shri (Samastipur)
Das, Shri Jitendra Nath (Jalpaiguri)	Mishra, Shri Ram Nagina (Padrauna)
Deshmukh, Shri Chandubhai (Bharuch)	Misra, Shri Satyagopal (Tamluk)
Dhumal, Prof. Prem (Hamirpur)	Mollah, Shri Hannan (Uluberia)
Dome, Dr. Ram Chandra (Birbhum)	Mukherjee, Shrimati Geeta (Panskura)
Drona, Shri Jagat Vir Singh (Kanpur)	Naik, Shri Ram (Bombay North)
Dubey, Shrimati Saroj (Allahabad) Fernandes, Shri George (Muzaffarpur)	Paswan, Shri Chhedi (Sasaram)
Gangwar, Shri Santosh Kumar (Bareilly)	Paswan, Shri Ram Vilas (Rasera)
Gautam, Shrimati Sheela (Aligharh)	Paswan, Shri Sukdeo (Araria)
*Gehlot, Shri Ashok (Jodhpur)	Patel Dr. Amrit Lal Kalidas (Mehsana)
Giri, Shri Sudhir (Contai)	Pramanik, Shri Radhika Ranjan (Mathurapur)
Gopalan, Shrimati Sussela (Chirayinkil)	Prasad, Shri Hari Kewal (Salempur)
Gupta, Shri Indrajit (Midnapore)	Purkayastha, Shri Kabindra (Silchar)

Rai, Shri Lall Babu (Chhapra)	Singh, Shri Pratap (Banka)
Rai, Shri Nawal Kishore (Sitamarhi)	Sur, Shri Monoranjan (Basirhat)
Raju, Shri Bh. Vijayakumar (Narsapur)	Syed Shahabuddin, Shri (Kishanganj)
Ram, Shri Prem Chand (Nawada)	Tandel, Shri D.J. (Daman & Diu)
*Ram Singh, Rao (Mahindergarh)	Tej Narayan Singh, Shri (Buxar)
Rana, Shri Kashiram (Surat)	Thakore, Shri Gabhaji Mangaji (Kapadwanj)
Rawat, Shri Bhagwan Shankar (Agra)	Tirkey, Shri Pius (Alipurduars)
Rawat, Prof. Rasa Singh (Ajmer)	Unnikrishnan, Shri K.P. (Badagara)
Ray, Dr. Sudhir (Burdwan)	Vadde, Shri Sohanadreeswara Rao (Vijayawada)
Raychaudhuri, Shri Sudarsan (Serampore)	Verma, Shri Sushil Chandra (Bhopal)
Roddaiah Yadav, Shri K.P. (Machilipatnam)	Yadav, Shri Chun Chun Prasad (Bhagalpur)
Roshan Lal, Shri (Khurja)	Yadav, Shri Devendra Prasad (Jhanjharpur)
Roypradhan, Shri Amar (Cooch Bihar)	Yadav, Shri Ram Lakhan Singh (Arrah)
Sarode, Dr. Gunvant Rambhau (Jalgaon)	Zainal Abedin, Shri (Jangipur)
Sethi, Shri Arjun Charan (Bhadراك)	MR. CHAIRMAN: The result** of the division is:
Shakya, Dr. Mahadeepak Singh (Etah)	Ayes: 133***
Sharma, Shri Jeewan (Almora)	Noes: 116
Shastri, Acharya Vishwanath Das (Sultanpur)	
*Silvera, Dr. C. (Mizoram)	
Singh, Shri Hari Kishore (Sheohar)	<i>The Motion was adopted</i>
Singh, Shri Jangbir (Bhiwani)	

**The following Members also recorded their votes: AYES Sarvashree Ashok Gehlot, Ramlal Rahi, Venkata Rangayya Naidu Palachdia, Pawan Singh Ghatowar, C. Silvera, Gyneendra Reddy, Kodakani Gowdana Shivappa, Narain Singh Chaudhari, Rao Ram Singh, Sarvashree Vish weshwar Bhagat, Sarat Chandra Pattanayak, Dr. Vasant Niwrutti Pawar, Sarvashri Bare Lal Jatav, Khelsai Singh, Mahendra Kumar Singh Thakur, Prithviraj D. Chavan, Kuli Balin, Banwari Lal Verma, Dr. N. Murugesan, Sarvashree P.P. Kaliaperumal, Anand Ahirwar, S.S.R. Rajendrakumar, Bheru Lal Meena, K. Thulasiah Vandayar, Subhash Chandra Nayak, Bapu Hari Chaure Dr. R.K.G. Rajulu, Kumari Selja and Kumari Farida Topno.

NOES: Sarvashree Lokenath Choudhury, Rameshwar Prasad Singh, Muhi Ram Saikia, R.M. Ghangare, Dharambhiksham, T.J. Anjalose, Chetan P.S. Chauhan, Vilasrao Nagnathrao Gundewar, Shrimati Girija Devi, Shri Mohan Rawale, Surendra Pal Pathak, Parasram Gangwar, Janardan Misra, Lakshmi Narain Mani Tripathi, Devi Bux Singh, S. Mallikarjunaiah, Shrimati Rita Verma, Sarvashree Lalit Oraon, V.N. Sharma, Chinmayanand Swami, Ram Tahal Choudhary Dattatraya Bandaru, Yoganand Saraswati, Shyam Behari Misra, Mohan Singh.