

vities. (Prevention) Amendment "Bill after
"the lunch hour. • The - House is adjourned for
lunch till 2.30 p.m.

The House then adjourned for
lunch at thirty-five minutes past
one of the clock.

: The House reassembled after lunch at
thirty-four minutes past two of the dock,

The Deputy Chairman in the Chair.

**' THE TERRORIST AND DISRUPTIVE
ACTIVITIES (PREVENTION) AMEND-
MENT BILL, 1993**

THE DEPUTY CHAIRMAN : Now we will
take up the Terrorist and Disruptive Activities
(Prevention) Amendment Bill, 1993- Before I
ask Mr. Chavan to speak, I request the
Members to be brief so that we can finish this
Bill early because Mr. Chavan has to go to Lok
Sabha for his "Demands for Grants and I
would like him to give his reply before he goes
there. If the Members can be brief, we can go
ahead with our business fast. I seek your
cooperation.

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

"That the Bill further to amend the
Terrorist and Disruptive Activities (Pre-
vention) Act, 1987, be taken into consi-;-
deration."

Madam, as the honourable Members are
aware, the Terrorist and Disruptive Activities
(Prevention) Act, 1987, was enacted on the 3rd
September, 1987 to meet the extraordinary
situation created by terrorist activities in many
parts of the country. It was envisaged at that
time that it would be possible to work on this
problem to a large extent within a period of
two years. It was provided in the said Act that
it would remain in force for a period of two
years, that is, till the 23rd May, 1989. The life
of the Act was further extended by two years
each time in 1989 and 1991.

We have to concede that this is a different
kind of law which will be out of place in a
normal situation. Honourable Members will
agree that terrorism cannot be tackled with a
velvet glove. The law has to be available as
long as terrorism shows its ugly face.
However, it is a fact that sometimes these
provisions have been misused and this created
problems. We carefully considered how to
soften the provisions to reduce the scope for
misuse. Some important changes have been
proposed. Thus investigation can commence
only if the Superintendent of Police authorises
it and prosecutions launched only with the
approval of IG. *In camera* trial will be at the
discretion of the Court. Remand during
investigation under section 167 would require
judicial application of mind and the progress
made in the investigation will be considered if
remand is to be extended beyond 180 days.

Other meaningful changes have also been
made. Amendments to the Act further
concretize the agreement signed with the UK
for mutual assistance in the investigation and
prosecution of terrorist crimes and the tracing,
restraint and confiscation of the proceeds and
instruments of crime and it is proposed to
extend the Act for a further period of two
years up to the 23rd May, 1995.

I commend this Bill to this honourable
House for consideration.

The question was proposed

**उपसभापति : श्री संघ प्रिय गौतम । आप
अगर संक्षेप में बोलेंगे तो कृपा होगी ।**

श्री संघ प्रिय गौतम (उत्तर प्रदेश)---
बंदम, मैं बोलूंगा तो कम ही, लेकिन एक
बात कहना चाहता हूँ कि इस सदन में
विधायी कार्य के लिए तो समय कम दिया
जाता है और फिजूल की बातों पर समय
ज्यादा बर्बाद होता है । सबसे बड़ा तो वह
विधायिकी का मामला है और इस पर
बहुत-बहुत बहस-मुवाहिजा होना चाहिए,
विचार आने चाहिए और फिजूल की बातें

बंद होनी चाहिए। इसलिए मेरा सबमिशन यह है कि विधायिका को अधिक-से-अधिक समय देना चाहिए।

मैंडम, आतंकवादी और विध्वंसकारी क्रियाकलाप निवारण संशोधन विधेयक इस संसद से लाया गया है कि अब तक आतंकवादी और विध्वंसकारी क्रियाकलापों का निवारण नहीं हो पाया है बल्कि ये क्रियाकलाप और ज्यादा बढ़ते चले जा रहे हैं। इसका निवारण हो सके इसलिए कुछ प्रावधानों में संशोधन और इसकी समय-सीमा बढ़ाने का प्रस्ताव है। मैंडम, हमारे देश में और दुनिया में जितने भी किस्म के अपराध हैं, उन सब से संबंधित कानून हैं और मूदत से कानून हैं और अपराधियों को सजा देने का भी व्यवस्था है, लेकिन आज तक दुनिया में अपराध समाप्त नहीं हुए बल्कि अपराध बढ़ते चले जा रहे हैं। संविधान में संशोधन होते हैं, कानून बनते हैं खिंचते हैं, संशोधित होते हैं, नए कानून बनते हैं, लेकिन अपराध और अपराधी समाप्त नहीं होते। तो मैं मंत्री जी से यह जानना चाहूंगा और उनकी सरकार से कि क्या इस संशोधन से आप अस्वस्त हैं कि अगर हम इसके स्वीकृति दे दें और अगर वह सब के भी पास करा दें तो क्या आप आतंकवादी और विध्वंसकारी क्रियाकलापों का निवारण कर लेंगे? मैं कहता हूँ कि बिल्कुल नहीं कर सकेंगे, बड़ी जिम्मेदारी के साथ कहता हूँ कि कानून से कभी अपराधिक क्रियाकलाप और अपराधी समाप्त नहीं हुए हैं।

इसलिए यह क्रियाकलाप समाप्त कैसे हो सकता है? इसकी पृष्ठभूमि में जाना पड़ेगा।

महोदय, मैं हमेशा इस तथ्य को स्वीकार करता हूँ कि मैं एक साधारण नागरिक हूँ और बड़े पिछड़े क्षेत्र और परिवार

से आता हूँ। मेरे स्वयं की सज़ाबज़ और अपने पिछारे हैं, मैंने कहीं दुनिया से उधार नहीं लिए हैं। मैं पढ़ा-लिखा भी ज्यादा नहीं हूँ। अखिर इसके कारण क्या हैं? चाहे असामाजिक तत्व बढ़ रहे हों, असामाजिकता बढ़ रही है, अपराधी बढ़ रहे हों, अपराध बढ़ रहे हों, आतंकवादी बढ़ रहे हों, आतंकवाद बढ़ रहा हो, इन सब के पीछे क्या पृष्ठभूमि है? इसके क्या कारण हैं? मैं समझता हूँ कि सबसे पहला कारण है इस देश की और दुनिया की जनता, आम जनता। मैं मुलाज के रूप में ही कह रहा हूँ क्योंकि भाषण तो लंबा हो जाएगा और समय इतना है नहीं। हमारे संविधान में जनता का दायित्व है, जनता का कर्तव्य है और सी. आर. पी. सी. को धारा 39 भी उस कर्तव्य को बताती है कि हमको अपराधियों की सूचना पुलिस और सरकार को देनी चाहिए। अपराधी नाजायज हथियार जमा करते हैं तो इसकी सूचना भी जनता को पुलिस और सरकार को देनी चाहिए। अपराधी इसी जनता में रहते हैं, इसी जनता के बीच उनके शादी, संस्कार होते हैं, वह इसी लोकैलिटी में रहते हैं। ऐसे अपराधियों को सामाजिक सम्मान नहीं देना चाहिए। उनका सामाजिक बहिष्कार होना चाहिए। उनसे संबंध स्थापित नहीं बाने चाहिए। उनको साथ पब्लिक में शैकहण्ड नहीं करना चाहिए। अपराधी का पब्लिकली आनर नहीं करना चाहिए। उसको किसी सामाजिक प्लेटफॉर्म पर नहीं बलाना चाहिए।

मैं एक उदाहरण देना चाहता हूँ। बाबा साहेब डा. अम्बेडकर के अनुरागी, उनके दाद रिपब्लिकन पार्टी की फार्म में, आप मंत्री जी, महाराष्ट्र के रहने वाले हैं आप जानते होंगे, उनकी बिरादरी के माहुरों ने एक बार यह फैसला लिया कि जो माहुर नीली टोपी नहीं पहनेगा, जय भीम नहीं करेगा, उससे शादी-संबंध विच्छेद कर लिए जाएंगे। बहूएँ छोड़ दें, लड़कियाँ हटा लीं यद्वा सामाजिक बहिष्कार, चाहे बात गलत हो लेकिन यह

यह हो सकता है तो अपराधियों का हम सामाजिक बहिष्कार क्यों न करें। सबसे पहले तो इस देश की जनता इसके लिए उत्तरदायी है।

इससे दया, दूसरी इसके लिए उत्तरदायी पुलिस है। पुलिस के यहां एक रजिस्टर नंबर-8 होता है। उसमें सारे इलाके के बदमाशों व अपराधियों के नाम होते हैं पहले ऐसे अपराधी की हिस्ट्री-शीट खूली थी और हिस्ट्रीशीटर बड़ा बुरा शब्द था। कहीं पब्लिक में यह शब्द आ गया तो कहते थे यह हिस्ट्रीशीटर है और उससे दूर से बात की जाती थी। आज वह हिस्ट्री-शीट खतम हो गई। पहले हिस्ट्रीशीटर को एक महीने में एक बार थाने में हाजरी देनी पड़ती थी, उसे बतानी पड़ती थी अपनी परजेंस और अपनी एक्टिविटी। पुलिस वालों को अधिकार था उसके घर में किसी भी समय घुस कर उसकी तलाशी लेने का। अब यह दोनों काम खत्म हो गए, जो वापस होने चाहिए। फिर पुलिस क्या करती है, पहले मामूली से अपराध में गरीब से गरीब आदमी की निष्कस्यत पर भी प्राइम फेसाइड if there is a case, if the police is morally and legally convinced.

मोरली और लीगली का मतलब यह है कि कानून से दफा बनती है, अपराध बनता है और मोरल से मतलब है कि पुलिस सॉटिसफाइड है कि इसने अपराध किया है तो अपराधी को गिरफ्तार करके उसे हथकड़ी डालकर गांव से पैदल थाने लाती थी। अब पुलिस अपराधी को गिरफ्तार ही नहीं करती, उसको मौका कोर्ट में सरण्डर करने का देती है। लिहाजा अपराधी सीधे अदालत में सरण्डर होता है। आधी सजा, जो समाज में हथकड़ी लगाकर और घमाकर अपराधी को लाते थे, चाहे वह कितना ही बड़ा आदमी क्यों न हो, उसकी हो जाती थी पुलिस अब यह नहीं करती बल्कि उसे मौका देती है। तीसरा काम पुलिस यह करती है कि पैगोकारी नहीं करती। पैगोकारी जब

नहीं करती और एषीडेन्स नहीं होती तो अदालत से अपराधी छूट जाता है। बड़े-बड़े अपराधी इस कारण से अदालत से मुक्त हो जाते हैं अपराध करने के तावजूब भी।

तो मैं अब पुलिस की बात कह रहा था और खुद इसके विपरीत पुलिस उन लोगों को गिरफ्तार कर लाती है जो निर्दोष हैं। तीसरी इसमें जिम्मेदारी है ज्यूडिशियरी की। ज्यूडिशियरी कभी-कभी तो बड़ी भावुक बन जाती है। भागलपुर जेल में कैदी अंधे कर दिए गए तो एक अंतरराष्ट्रीय पत्र वहां से लिख दिया, इतनी भावुक हो गई सुप्रीम कोर्ट कि उसी को रिट याचिका स्वीकार कर लिया और उस पर निर्णय दे दिया। ठीक है, मानवाधिकार है, लेकिन वहां हजारों आदमी टाडा के अंदर जेलों में बंद हैं और सैकड़ों याचिकाएं वर्षों से सुप्रीम कोर्ट के यहां विचारधीन हैं, आज तक कोई सुनवाई नहीं हुई है। कभी-कभी कोर्ट यह कर लेती है, न्यायपालिका चाहे जिले की हो या सुप्रीम कोर्ट हो, मामूली गरीब आदमी, छोटे आदमी को अदालत के अंदर दिन में अदालत के समय में भी जमानत नहीं देती और यही न्यायपालिका, सुप्रीम कोर्ट इस देश के बड़े-बड़े पूंजीपति, नेता अपराधियों को छूट्टी के दिन, रात के 12 बजे अपने घर पर जमानत दे देती है। सुप्रीम कोर्ट ने यह किया है। तो यह भेदभाव—

There is a discrimination among the offenders and criminals for the same offence.

तो सुप्रीम कोर्ट भी करती है इसमें अदालत भी बाधक है और चौथे जो सबसे बड़े बाधक हैं, वे हैं राजनेता, पालिटिशियन। पालिटिशियन्स के प्रोडक्ट होते हैं बदमाश। आम तौर से और ये पालिटिशियन्स इन बदमाशों को अपने लिए चुनाव में इस्तेमाल करते हैं, इनसे पैसा लेते हैं, इनसे बूथ कैप्चर कराते हैं, इनसे भग, पैदा कराते हैं, इनका इस्तेमाल करते हैं

और गृह मंत्री जी स्वयं जानते हैं, इनके यहाँ भी खूब होता है और बुरावा तो कांग्रेस पार्टी का हो देने है क्योंकि इसी का राज आया था पहल और इसी का राज रहा है। इसके अलावा यहाँ तक ही सीमित नहीं है, यं उनका प्रोड्यूस तो करते ही हैं, उनको संरक्षण भी देते हैं। बहुत से बदमाश पार्लिटियन्स क घरों से पकड़े गए हैं। तीसरी चीज यही है कि अगर यहाँ तक सीमित रखें कि उनकी काटा, लाइसेंस, एजेंसी, दुकान, मकान, फ्लैट दे दें तो भी गनीमत है, पार्लिटियन्स में यहाँ तक गिरावट आ गई कि इन अपराधियों को एम.एल.ए., एम.पी. मिनिस्टर भी बना देते हैं। इसलिए मैं चौथा सुझाव यह देना चाहता हूँ कि आत्म-विमोचन करें पार्लिटियन्स। अगर रस्म अदायगी हो करनी है तो इसको पास कर लीजिए और अगर टेररिस्म खत्म करना है.. (सभ्य की घंटी).. मंडम, पांच मिनट और दीजिए। मरे पन्द्रह मिनट हैं। तो अगर इस टेररिस्म को खत्म करना है तो फिर अपनी आत्म-विवेचना कीजिए। और जनाब कहकर कैसे निकल जाते हैं—एक थाने में अपराध ज्यादा हो जाए तो उस थाने का दरोगा कहता है कि दूसरे थाने में हमसे भी ज्यादा है। एक जिले में ज्यादा अपराध हो जाए तो इन्स्पेक्टर और एस.एस.पी. कहता है कि दूसरे जिले में हमसे भी ज्यादा है। एक प्रदेश में ज्यादा हो जाए तो कहते हैं, दिस इज नेशनल प्रब्लम और अब आतंकवाद सारे देश में हो गया तो हमारी सरकार कह रही है कि दिस इज इन्टरनेशनल प्रब्लम और यह कहकर छुटकारा पा लेती हैं। यह नीबत हो क्यों आ गई जो यह प्रब्लम बन गई इन्टरनेशनल? अगर बुरू में ही काबू पा लिया जाए तो यह प्रब्लम इतनी बड़ी न हो। एक छोटा सा उदाहरण देता हूँ। हमारे गांव में एक गरीब की शादी होकर आई। बहू जो थी वह थोड़ी सी बेवकूफ टाइप की थी। गांव में बाली-वाली ऐसे ही देती थी तो ससुर से कहने लगी, मैं तरे मूँह में पंजाब कर दूंगी। ससुर ने दो लाठी मारी और उसी समय नीचे को कर दिया और फिर घूँघट डालकर रही और ससुर का सम्मान करती रही। अगर ससुर बर्दास्त

कर लेता तो शायद यह गड़बड़ी कर हो देती वह। तो बदमाश जिस दिन पैदा हो उसी दिन कट-पीटकर उसे ठीक कर देना चाहिए। उसे क्यों बढ़ावा देते हैं यह लोग?

उपसभापति : आप लोग उदाहरण भी देते हैं तो औरत का ही देते हैं, यह बड़े अफ-सोस की बात है। पुरुष का क्या नहीं दिया? किसी का दामाद भी बदमाश हो सकता है।

श्री संच प्रिय गौतम : मंडम,

मरे बहेरे पे उगी दाढ़ी के इजाफे को न देख

मरे खत के मजमून को पढ़, मरे लिफाफे को न देख।

मरी भाषा पर न जाइए, मरे भाव सम-सिए आप, मैं क्या कह रहा हूँ। तो मैं यह कह रहा था कि पहले ही दिन उसे दबोच लेना चाहिए लेकिन यहाँ पहले ही दिन उस प्रश्रय मिलता है। इसलिए पार्लिटियन्स के अन्दर नीतिकता उपजनी चाहिए और पार्लिटियन्स को इन्हें प्रश्रय नहीं देना चाहिए, इनकी पैरोकारी नहीं करनी चाहिए और अगर किसी पार्लिटियन्स का पारिवारिक जन टाडा में गिरफ्तार हो जाए और अगर उस जरा भी शर्म-ओ-हुया है तो उसे अपने पद को छोड़ देना चाहिए। मैं अपनी बात हमेशा पार्टी से उठकर कहता हूँ। पार्टी तो दाद में है, मैं भारतीय हूँ पहले। आपके यहाँ अभी एक व्यक्ति पकड़ा गया 'टाडा' में और उसके परिवार का एक व्यक्ति एक पार्टी का और संसद का सम्मानित सदस्य है। इस संसद सदस्य पर क्या आसमान गिर जाता अगर वह त्यागपत्र दे देता। नीतिकता कहीं पर तो दिखानी चाहिए लेकिन राजनीतिज्ञ नीतिकता नहीं दिखाते। बड़े-बड़े अपराधों में इनके परिवार के लोग पकड़े जाते हैं तो फिर ये अपराध कैसे समाप्त होंगे? मैं एक उदाहरण देकर अपनी बात समाप्त कर रहा हूँ।

श्री सिकन्दर बख्त : औरत का मत दोज-
एगा ।

श्री संघ प्रिय गीतम : नहीं दूंगा ।

उपसभापति : अभी आप अपनी पाटी के
लीडर की बात को मानेंगे ।

श्री संघ प्रिय गीतम : मंडम, बात तो मैं
सबकी मान लेता हूँ । मैंने पहले ही अर्ज
किया कि मेरी भाषा पर मत जाइए, आप उसे
करकेट कर लीजिए । एक उदाहरण मैं
आपका देता हूँ । मेरे में एक सांसद थे।
उनके घर में चारों ही गइ 90,000 रुपए
की, जो ट्रैक्टर के लिए पंसा रखा था । तो
उन्होंने रिपोर्ट लिखाई । वहाँ जो एस.एस.
पी. थे अब वे आइ.जी. हैं और प्रधानमंत्री
के साथ हैं । वे मेरे मित्र हैं । वे बुलन्द-
शहर में एस.एस.पी. रहे थे, मैं वहाँ का
रहने वाला हूँ । सांसद महादेव ने रिपोर्ट
लिखाई, मुलजिम का नाम नहीं लिखाया ।
जब वह एस.एस.पी. के पास आए और कहने
लगे कि मुलजिम को गिरफ्तार करो । इस पर
एस.एस.पी. ने कहा कि आपने नाम तो
लिखाया नहीं, किसको गिरफ्तार कर लें ?
उन्होंने कहा कि फ्लां-फ्लां मुजरिम है । इस
पर एस.एस.पी. ने कहा कि आपने उसका
नाम क्या नहीं लिखाया तो वे बोले कि कौन
दुश्मनी मोल लें, इसलिए नाम नहीं
लिखाया । यह एम.पी. साहब कह रहे हैं ।
उन्होंने कहा कि इंटरोगेट करो । एस.एस.
पी. ने कहा कि चलिए मैं आपके सामने इंटे-
रोगेट करता हूँ । तब उन्होंने दूध और
जलेबी मंगाई और मुलजिम से कहा कि यह
दूध पी लो, जलेबी खा लो और बता दो चोरी
तुमने की है । तब नेता कहने लगे कि यह
दूध जलेबी खाकर बता देगा ? जब तक
थर्ड रेट मंथड इस्तेमाल नहीं करेंगे, नहीं
बताएगा । तो एस.एस.पी. बोले कि नेता जी
परसें जब मैंने एक बदमाश को पीटा था तब
तुम्हीं प्रदर्शन करने आए थे मेरे खिलाफ । तो
नेता लोगों को बदमाशों के लिए प्रदर्शन नहीं
करना चाहिए ।

मैं एक उदाहरण और दे रहा हूँ । वीली-
भीत में 10 आतंकवादी मारे गए और फरीद-

कोट के एस.एस.पी. ने अगले दिन ध्यान दे
दिया कि इनमें 8 तो नामजद आतंकवादी हैं
लेकिन इसी सदन के सम्मानित सदस्यों ने
उन्हें तीर्थ यात्री बताया इससे आतंकवादियों के
हैसले बुलन्द हुए । इसमें अबैटमेंट एक
अपराध है और अबैटर भी उतना ही अपराधी
है ।

Politicians abet the offence.

मेरा अपना कहना यह है कि ये राजनीतिक
जो है ये अबैट करते हैं आफेंस को । क्या
जरूरत है आपको ? कल एक सज्जन कह
रहे थे, बोल रहे थे बम्बई कांड के बारे में ।
एक अपराधी एक मोहल्ले में रहता है, एक
घर में रहता है । सब लोग जानते हैं कि
कहाँ है । पुलिस उसे पकड़ने जाती है । मान
लीजिए वह नहीं मिला । कई दिन तक
नहीं मिला तो घर वालों को पुलिस पकड़ लेती
है और थाने में बिठा देती है कि जब तक
अपराधी नहीं पकड़ा जाएगा, तब तक आपको
नहीं छोड़ेंगे । पुलिस उन्हें तंग न करें,
यह बात तो हम मानते हैं लेकिन इंटरोगेशन
के लिए पुलिस किसी को ले आती है अप-
राधी को पकड़ने के लिए तो फिर यह पोलि-
टिशियन काहे को आवाज उठाते हैं ? क्या यह
अबैटमेंट नहीं है ? अपराधी को क्या
इसरा बढ़ावा नहीं मिलता है ? इसलिए इन
अपराधियों के लिए हमको सहारा नहीं देना
चाहिए ।

मंडम, मेरा अपना एक विश्वास है कि
इस कानून के जेरेए गृह मंत्री जी इसको समान्य
नहीं कर पाएंगे और इसका दुरुपयोग हों
रहा है । इसका दुरुपयोग उन लोगों के
खिलाफ होता है जो निर्दोष हैं और पोलि-
टिकल एंजेंज के लिए होता है । इसलिए
नैतिकता गवारा नहीं करती कि मैं इसका
समर्थन कर सकूँ लेकिन अब राय बहुत बढ़
गया है । चूँकि आतंकवादी और विध्वंसक
गतिविधियाँ बहुत ज्यादा फैल गई हैं । इस-
लिए अगर थोड़ा सा आत्मसंतोष हो जाए कि
इसके संशोधन से हम शायद इसको कर्ब कर
सकेंगे, उस नाते मैं इसका समर्थन करता
हूँ । एक प्रार्थना करता हूँ आपसे । देर
आये दुरुस्त आये । वैसे मैं राजनीतिक बात

करता नहीं हूँ, लेकिन उत्तर में तो आप कमजोर होते गए, दक्षिण में भी आप कमजोर होते गए। ये आपके आखिरी दिन हैं। इसके बाद कांग्रेस की सरकार रहनी नहीं है। इसलिए आप ऐसा काम कर जाओ कि मरता क्या न करता, लोग आपको याद करें। इस संसोधन के बाद कुछ कदम ऐसे उठाओ कि टूटूँ, मारूँ टायर काँपे, जैसे कल्याण सिंह ने उठाए, सबसे पहले राजनीतिक माफिया बंद किए थे, आप अपना संरक्षण का हाथ अपराधियों से उठा लीजिए। इन शब्दों के साथ मैं आपसे इस विधेयक का समर्थन करता हूँ।

SHRI PRAVAT KUMAR SAMANT-RAY (Orissa) : Madam Deputy Chairman, the Terrorist and Disruptive Activities (Prevention) Amendment Bill, 1993, is being introduced for the fourth time to extend its term. Madam, this Act has been in existence for the last six years and the hon. Home Minister in his own statement has said that the net result is that terrorism which was initially confined to the States of Punjab, Jammu and Kashmir and North East, has spread its tentacles to the States of Uttar Pradesh, Madhya Pradesh, Himachal Pradesh, Maharashtra, Haryana, Delhi, Gujarat and West Bengal. I am afraid next time when you will come for extension of its term you will say that all the States *ai* this country have been affected by these terrorist and disruptive activities.

What could be the reason ? The Act is in existence for the last six years and yet, instead of preventing terrorist and disruptive activities in this country they have gone beyond limitations. When the Bill was passed in 1987 these activities were confined to two States and a part of the North East of this country. Now the situation has come to such a stage that while sitting in this Parliament the Government and the Members could not feel secure. You will admit that the security inside the Parliament House is also threatened. So, while replying to the queries being raised here, I would like the hon. Minister to clarify what has gone wrong ? Is it because we could not implement this Act in a proper manner ? Is it because the administrative system of this country has

failed to implement this Act for the purpose for which it was enacted ? Is it that the police which is the implementing agency of this Act has failed ? Is it that the police has been misusing the provisions of this Act ? I would like to remind you that TADA is being abused and it is being misused for political reasons; even to the extent that innocent citizens, political leaders have been detained under this TADA. Now it is mentioned in the newspapers here and there that judges have been detained under this TADA. So, I would like to know whether while implementing the Act it is being abused or misused for political purposes or for the purposes other than the aims and objects given provided in this Act.

3.00 P.M.

[THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH IN THE CHAIR) : Finally, I would like to know this from you. Declared outlaws having political proximity, have been escaping the clutches of law with the connivance of the powers that be. What steps does the Government propose to take ? Is the Government going to rise above party and political considerations and see that these people have no nexus or proximity with any body where-ever he may be and help the law-administering authority to implement it in the correct perspective ?

Third, I would like to give an example. In my own locality, junior police officers, those who are now joining the IPS cadre, are trying to rise to the occasion. At this time what happens is that senior police officers who are having their link, nexus with political and influential people, want to bring them under the system which has already become useless for protecting the security of this country.

With these words, I seek an assurance from you that the TADA will not be abused and misused and that it will not be used for any purpose other than the purpose which has been aimed at. I hope that you will satisfy us that the system which is the agency for implementing this,

Activities (Prevention)

would rise to the occasion of giving a feeling to the people of this country that at least the TADA can be an effective weapon against the outlaws who are trying to disrupt this country.

Thank you.

श्री चतुरानन मिश्र (बिहार) : उपसभाध्यक्ष महोदय, मैं टेरोरिस्ट एण्ड डिस्रप्टिव एक्टिविटीज (प्रिवेंशन) अमेंडमेंट बिल का विरोध करता हूँ। विरोध का कारण यह है कि इसका दुरुपयोग होता है और उस पर मैं बाद में आऊंगा। यह आतंकवादी समस्याओं का निदान नहीं है। दूसरी बात यह है कि दुरुपयोग के सिलसिले में आज की दुनिया, आप जानते हैं कि ह्यूमन राइट्स के माना अधिकार विरोधी मामले में बहुत ज्यादा जागरूक है या कुछ अंशों में कह सकते हैं किटची है। आज जब कि टेरोरिज्म को आइसोलेट करने के लिए विश्वव्यापी आन्दोलन चल रहा है, उस समय अगर इस तरह के कानून को और बढ़ावा दिया जाता है या उसको और भी जतरनाक बनाया जाता है तो इससे भारत की प्रतिभा धमिल होगी और टेरोरिज्म से फाइट करने में हमका मदद नहीं मिलेगी। इसीलिए मैं सिद्धान्ततः इसका विरोध करता हूँ।

दूसरी बात मुझे यह कहनी है कि आजकल आतंकवाद का इस्तेमाल राजनीतिक कारणों से हो रहा है और इस पर सरकार ध्यान नहीं दे रही है। मैंने, इसके औचित्य को बताते हुए भेरी महोदय ने जो भाषण दिया उसको ध्यान से सुना। उन्होंने सारे देश में जितने भी आतंकवाद है सब को एक ही रूप में ले लिया। नार्थ-ईस्ट का आतंकवाद, कश्मीर का आतंकवाद, महाराष्ट्र में जो हुआ है उसको, या पीपुल वार ग्रुप हो या अलफा हो और चाहे बाबरी मस्जिद तोड़ने के बाद की घटना हो... (व्यवधान)...

श्री संघ प्रिय गौतम : इसका बाबरी मस्जिद से क्या संबंध है... (व्यवधान)... क्या इसमें समय बरबाद कर रहे हैं?

उपसभाध्यक्ष (श्री अंकर दयाल सिंह) : गौतम जी, आप स्दन का समय बरबाद न करें।... (व्यवधान)...

श्री संघ प्रिय गौतम : बाबरी मस्जिद का इससे क्या मतलब है... (व्यवधान)...

उपसभाध्यक्ष (श्री अंकर दयाल सिंह) : आप समय बरबाद मत करें।

श्री चतुरानन मिश्र : उपसभाध्यक्ष महोदय, मैं यह इसलिए बता रहा हूँ कि बम्बई की घटना और उसके बाद जो घटनाएँ घट रही हैं उसके बारे में सदन में बयान आ रहा है और इनकी पार्टी के लोग भी यही स्टैंड ले रहे हैं। इसलिए आतंकवाद राजनीतिक बात बन गई। गौतमजी, आप समय बरबाद करने से बचकर डरते तो बाबरी मस्जिद आप तोड़ते ही क्यों? सब का समय बच जाता। यह तो आपने किया नहीं।

श्री संघ प्रिय गौतम : उपसभाध्यक्ष महोदय, मैं आपसे एक प्रश्न पूछना चाहता हूँ। क्या आतंकवाद 6 दिसम्बर के बाद से ही उत्तर प्रदेश में, पंजाब में, कश्मीर में (व्यवधान)

उपसभाध्यक्ष (श्री अंकर दयाल सिंह) : गौतम जी, आप प्रश्न पूछ चुके हैं। बोल चुके हैं। अब उनको बोलने दीजिए। मिश्र जी, आप इस विवाद में न पड़ें, आप अपने विषय पर बोलें।

श्री चतुरानन मिश्र : मैंने प्रारम्भ में ही कहा था कि तरह-तरह की समस्याओं में संबंधित आतंकवाद है। एक ही किस्म का आतंकवाद नहीं है। हमने चर्चा की थी कि अलग-अलग क्षेत्र को ले कर, एक क्षेत्र में पीपुल वार ग्रुप को ले कर, दूसरे में उलफा को ले कर और इसी तरह से अन्धों का नाम भी लिया था कि इन्होंने भी ऐसा किया जिसके चलते ऐसा हुआ। हमने तो एक भाड़ू से नहीं भाड़ा है। यह बात ठीक है कि बम्बई बम विस्फोट की जगह के बारे में उसे रोकने में नहीं, मुझे यह कहने में हिचकिचाहट नहीं है कि बम्बई पुलिस इस विषय में अच्छी छानबीन कर रही है चाहे वह किसी भी पार्टी की सरकार रही हो। लेकिन दो बातों को हम

नहीं भुला सकते हैं। पहली बात तो यह है कि टाडा तो पहले से था ही। इन्फैंट्री में जब बाल ठाकरे खुले आम यह कहते थे कि हमने दंगा करवाया, हमने मस्जिद तोड़ी थी तो उनकी अरेस्ट क्यों नहीं किया गया था? उधर कैसे विश्वास किया जाए कि राजनीतिक तौर पर इमानदारी से आप इस कानून को लागू कर रहे हैं। यह तो आप एक के लिए इस्तेमाल कर रहे हैं और दूसरे के लिए नहीं कर रहे हैं। तो फिर आप पर चार्ज आया ही। अगर आपने यह किया होता तो फिर आप पर चार्ज नहीं आता। गौतम जी चले गए, शिवसेना के साथ मेल जोल कर उन्होंने चुनाव में किया है, मैं सरकार से यह कहना चाहता हूँ कि आप निष्पक्ष ढंग से काम करें। दूसरी बात मैं यह कहना चाहता हूँ कि आज राजनीति का क्रिमिनलाइजेशन हो गया है। इस पर सरकार कोई कदम नहीं उठा रही है। यहाँ सभी पार्टियों के लोग खड़े हो कर कहते हैं कि हमारे यहाँ राजनीति का क्रिमिनलाइजेशन हो गया है लेकिन सरकार को इसको रोकने के लिए आगे आना चाहिए और कहना चाहिए कि हम यह यह कदम उठा रहे हैं। आपको इसका कहने में क्या दिक्कत है? दूसरी बात यह है कि अंडर वर्ल्ड को अपराधकर्मी डम टॉफिकर्ज है नशीले पदार्थों का जो व्यापार करते हैं। यह अफगानिस्तान से ले कर पाकिस्तान होते हुए भारत का इस्तेमाल करते हुए अमरीका तक जाते हैं। उधर बर्मीज वाइर से लेकर जहाँ पर इसकी खेती होती है, अफगानिस्तान में इसकी खेती होती है, वहाँ से लेकर फिर यहाँ आता है, दोनों तरफ से व्यापार होता है। इससे इतना ज्यादा खपता है कि चाहे किसी को भी यह खरीद सकते हैं। अब तो यह चर्चा आ रही है, आपने अभी इन्फैंट्री की घटना के बाद देखा कि एलियन फिल्मी दस्त्रियाँ के लोगों का क्रिमिनल वर्ल्ड से जो संबंध था, उसके तारे में छान-बीन कर रही है। यह उचित है या अनुचित है, मैं इसे इसमें जम्मे का अधिकार नहीं हूँ, आप उन पर बाध लगा रहे हैं लेकिन मैं यह पूछना चाहता हूँ कि इसकी क्या वजह है कि आप अपराध से संबंधित राजनीतियों पर हाथ क्यों नहीं लगा रहे हैं, चाहे कोई भी पार्टी

हो, चाहे किसी भी पार्टी के हों? अगर आप यह काम करते तो आपकी प्रतिष्ठा बढ़ जाती है और सारा राष्ट्र आपकी तरफ आकर्षित होता। आप पिक एंड चूज के आधार पर काम करते हैं जिसके चलते इस तरह की बात होती है। मैं चाहता हूँ आतंकवाद का सही ढंग से विश्लेषण कर आप बताएं मैं नहीं समझता कि अभी गृह मंत्री जी बताएंगे। भाषा के बारे में जो उन्नत भाषाएँ हैं उन्होंने अपने लिये भाषावार राज्य सारे देश में बनवा लिए थे। जो भाषाएँ उस राज्य उन्नत नहीं थी वह लोग अब उठ रहे हैं, छोटी-छोटी रेनल्टीन अब उठ रही हैं, एथनिक ग्रुप अब उठ रहे हैं। यह पहले जगत नहीं थे। पहले प्रशासन तले जगत थे, जगह तले जगत थे, दूसरे लोग जगत थे अपने अधिकार के लिये, राज्य से लिये। अब दूसरे लोग उठ रहे हैं। उनके सवालियों को हम कैसे लें चाहे वह इमारतों के आदिवासियों की समस्या हो, चाहे जाति हिंसा की कल लोगों की समस्या हो, चाहे गैरसामाजिक के इलाके के लोगों की समस्या हो जो इस तरह की ठिकी और जगह की समस्या को। इन लोगों के तारे में क्या सोचने-होमोफिलिक कारण हैं जिनके चलते यह हो रहा है। कोई नहीं कह सकता कि एथनिक ग्रुप से लोग कमजोर रेगैरिज्ड हैं। कोई नहीं कह सकता है कि वे विद्वानों से ऐसा लेका करने हैं। लेकिन यह सब कह सकते हैं कि आज जो समाज का अत्यंत ही डेलीव दिव्य है वह इतिहासों के तले पर आपका प्रभावना करना चाहता है। क्रायमिज्म क्या भी है, हम भी सिद्धांततः अविद्या में निहताम जन्में करने हैं। आप जानते हैं क्या हम को। लेकिन हम लोक एलकल मेरीमैगन को माने हैं... (संघर्ष की हंसी) लेकिन कुछ लोग हैं जो एल-रेगैरिज्ड हैं। वे जय प्रशस्ति का तारे निहान करना चाहते हैं। कुछ तक काय 40-50 वर्ष तक आतमी भ्रम, कंसाल समवा हुआ रहेगा, संरनों में एहा रहेगा। कोई उसको देखेगा नहीं। दिल्ली वालों के लिये तो बहुत अच्छी बात है। इस सब में एयर-कंडीशन में तैरकर भाषण करना बहुत आसान काम है। लेकिन जो भूरे हैं वे हथियार उठा खते हैं। इस पर हम क्या करें। इसलिए

इनकी सोशियो इकनामिक प्रब्लम्स जो हैं इनका हल निकालना चाहिए।

आखिरी बात मैं कहना चाहता हूँ कि आपने जो टाडा के संबंध में मीटिंग बुलाई थी उसमें हम लोगों को कहा था कि आप कोई सुझाव दीजिए, राय दीजिए कि इस कानून का दुरुपयोग न हो सके। उपसभाध्यक्ष महोदय, मैंने लिखकर भी मंत्री महोदय को दिया कि एक स्पेशल प्रावधान आप बना लें। इस कानून में एक साल तक पकड़कर, बिना किसी कारण के दिखलाये हुए पकड़कर भीतर रख देते हैं। एक साल कम समय नहीं है किसी भी नागरिक के लिए। बाद में आप छोड़ भी देते हैं तो उससे स्टेट टेरेरिज्म खत्म नहीं हो जाता है। इसलिए मैंने यह अनुरोध किया था कि इस कानून में यह प्रावधान रखिए कि जब ट्रायल का इन्वेस्टीगेशन पीरियड रहे - हम यह नहीं कहते, ट्रायल में जाने के बाद तो कोर्ट का अधिकार हो जाता है उसे रोका जाये लेकिन कानून बनाकर हम लोग दे दें क्योंकि ट्रायल में इन्वेस्टीगेशन के लिए उन्होंने साल भर तक टाइम दिया है, पहले 180 दिन था फिर एक साल भर का कर दिया, यह बहुत लम्बा समय है। निरपराध लोगों को इतने दिन रखने के लिए यह खुद एक अपराध है जो स्टेट के द्वारा आर्मानाइन होता है। मैं जानता हूँ कि राजस्थान में दंगा हुआ था। उसके बाद मैं गया। बहुत से लोग पकड़े गये। बहुतेरे मस्तिष्क हैं जो आज तक नहीं छूटे हैं। मैंने आपसे चर्चा की थी उस मीटिंग में कि आप उस कोर्ट को दीजिए। शायद आपने देखे होंगे या नहीं लेकिन आपने सचना तो मझे कुछ नहीं दी है। लेकिन आश्वासन तो दिया था। मैं चाहता था कि हाइकोर्ट के एक जज के मतहत, जैसे प्रिवेंटिव डिटेंशन एक्ट वर्गमेंट में प्रावधान है इसके रिवा करने का उसी तरह से अगर तीन महीने के अंतर इन्वेस्टीगेशन एलियम न कर सके छः महीने में नहीं दे सके तो आटोमैटिक उसको रिहा करने का प्रावधान होना चाहिए। यह नियम इस कानून के मतहत रखिए। हमका कानूनन प्रावधान हो सिर्फ सदन में अडवायस नहीं। आपका भाषण लेकर तो कोई कोर्ट में नहीं जाएगा कि मंत्री महोदय

ने यह भाषण दिया था। कास्टीट्यूट असम्बली की बैठक में बहुत भाषण दिये गये थे सेक्युलरिज्म आदि पर लेकिन कैसे इसको लागू कर रहे हैं, इसको तो आप सब देख रहे हैं। गौतम जी धन और ज्यादा ख्याल होगा। इसलिए मैं आपसे अनुरोध करूंगा कि यह व्यवस्था कीजिए। अगर यह नहीं करते हैं तो मैं संवैधानिक रूप से इसका करता हूँ। धन्यवाद।

SHRI S. MADHAVAN (Tamil Nadu) : Mr. Vice-Chairman, it is unfortunate that we have to extend this Act for a further two years. I understand that the Supreme Court is examining the validity of this Act. I suggest we should avoid the political misuse of this power. Even the officers are misusing this power with the help of politicians. The Government of India must take the personal responsibility to review the cases, at least, once in six months, personally at the Home Minister level whether anything wrong is done by the politicians or administrators or police people.

Then one new Section 7A has been introduced. I think the Government wants to give power to the investigating officer to seize the property and if it is not possible he can attach the property. This provision is already there in the Cr.P.C.

There is one lacuna in this Act. I understand that the Government is giving power to the investigating officer who seizes or attaches the property. Within 48 hours he has to report to the Designated Court and the Court has to confirm it or revoke it. Why does the Government want to give power to the investigating officer who is to make such attaching order? How does it come there? If it comes to the court within 48 hours, it is the court which has to decide whether the attachment should be released or not. Then, why do you give such powers to the attaching officer himself? There is something fishy. You must take note of it. So, the officer making an attachment has been given the power to release that attachment without the verdict of the court.

Certainly, the police officers will misuse this provision for getting money from the people whose property has been attached. I think that this should not be the intention of the Government. It has been wrongly worded. This clause 7A should not be approved by the Government. Then, a sub-section has been added. In clause 9, section 20A (2) clearly says, "No court shall take cognizance of any offence without the previous sanction of the Inspector-General of Police." This is okay. But what about the sub-section (1) ? What does the Government want under this section ? This section reads, "... no information about the commission of an offence under this Act shall be recorded by the police..." How is it correct ? If the police station is in a village, they have got to record everything. They have to record everything in the files. I think what the Government means is that a police officer should not take up the investigation of that case without the prior permission of the Superintendent of Police. That, I think, is the intention of the Government. Maybe, the wording is not correct. It should be modified that the information about the activities of the terrorists can be recorded by a police officer in a police station. I think there is an anomaly in the framing of this section. The Cr.P.C. gives power to the police officers on duty to record in writing whatever be the case of offence that *comes to* them; whether he investigates or registers a case is a different thing. I think it is against the wishes of the Government itself. This should be looked into. Generally, we have the Defence of India Rules, we have got the MISA, we have got the Goondas Act in some States. All these are taking away the rights of the individual citizens to approach proper forums. And I want to emphasise that every six months, the cases pending under the TADA should be reviewed at the highest level, at the Ministerial level.

SHRI ASHIS SEN (West Bengal): On the face of it, the proposal that has been brought before us appears to be curb the terrorist and disruptive activities. Initially, it was brought in May, 1987. Now, six

years have elapsed with several extensions from time to time. What exactly has been the result of the implementation of this particular Act ? Has the Government curbed terrorism ? Is it not possible to take away the root of terrorism ? It has been almost like the application of article 356. It has been said several times and this time too that this Act will not be abused or misused. Terrorism has not abated, rather it has got aggravated in different areas. It is just not enough to enact a law to contain terrorism. It has to be implemented properly. I think that mere enactment of the law will not provide a solution for the problem. There are so many legislations. It takes away the citizens' normal rights. Instead of that, where is the necessity to go for a draconian law like the TADA ? Do you mean that the whole administration is behaving in such a manner that in spite of having 25 rifles, it wants the 26th rifles to maintain law and order ? It is almost like that because you cannot use the earlier legislations which you have brought and you want more and more power to take away more and more rights of the common man. This is something where we feel that the TADA has got no need for its existence or continuation.

Ostensibly, it means what ? It appears as if this amendment has been brought to enable the Government to confiscate the properties of people who are accused, co-accused or of those who are conspirators or abettors.

It wants extension of his TADA for another two years, and two years hence, there will be another Bill to extend it further because of the complete incompetence of the Government to deal with terrorism, to deal with disruptive activities. It appears like that. Prevention is the objective. Then this Act is not the solution. What is the basic factor because of which people go in for terrorism or some anarchy type of thing ? It is because they do not have a normal economic living to lead a life of an ordinary citizen. If it is made available, why will the young people get attracted to these arms, to these activities of terrorism and disa-ruption ? Why are they going ? Without going into the matter,

you say that you will be able to solve these problems by bringing this legislation. I think not that out of not understanding you are going to do that, you was to do it deliberately under one plea or the other to take away the normal rights of the people. Young men are getting attracted. Why ? It is because they cannot have a normal living, avocation to live. If they had got it, then perhaps the problem would have been much reduced. I cannot say it can be completely eliminated, particularly in view of our relations with our neighbouring countries, the international situation and because of what Mr. Chaturanan Mishra has stated a little earlier that is, drugs and all that. They might be the reasons. "But this is not the only way by which terrorism could be fought.

Then, proceedings are to be in camera Why in camera ? Why not allow everybody to be heard publicly. If you want to prosecute a person, why don't you prosecute him publicly ? Why should it be done in camera ? This gives an impression to any citizen that he is being prosecuted with an ulterior purpose so that the public cannot know what is going on inside. That is why in camera provision is unnecessary and obnoxious.

SHRI S. B. CHAVAN : Now the discretion is with the courts.

SHRI ASHIS SEN : I know that. You used the word 'may'. I read it also. You said, "Proceedings under this Act may be held in camera if the designated court so desire". It is not a clear-cut statement that every case has got to be heard in the open court. It means that some scope, some leverage is given to decide whether to hold it in camera or in public but the mainstay is to hold the proceedings in camera if I have been able to understand what exactly the meaning of this particular clause is. That 'amendment has not brought any material difference. Actually, severe measures are needed to curb this. For that, what is needed is political will, strong political will for that matter because earlier speakers have already pointed out the nexus between the political parties and those who are indulging in activities like

bringing funds, providing funds to the political parties. That is there. We cannot completely brush it aside.

It is stated that most of the States have given their consent for the extension. All States have not given. Some States have opposed. It means that it is not a unanimous opinion of all the States for the extension of this TADA any more. The Home Minister has stated that to obviate misuse of power, charge is given to the Superintendent of Police or the IG of Police. What did we see in the recent past ? What happened in Tripura ? The IG of Police or the Superintendent of Police is used by the political party in power. Even though the charge is given either to the IG of Police or the Superintendent of Police, they are all under the charge of the Minister and the Government and naturally the misuse or abuse does not lie with a particular police officer but with the power that wields those instruments as in a chess game. What is the guarantee that it will not be used in that manner ? Misuse and abuse are there by each ruling power. The police is to be used for that purpose. In Tripura, there was one case. An advocate had a little bit of an altercation or conflict with the police officials. The next day he was booked under the TADA Act while he had nothing to do with terrorist activities. Any junior or medium or top officer can do that. We know what is happening in Haryana between the top IAS and IPS officers. Naturally, whether it is the IG or the Superintendent of Police, that does not make any material difference so far as application of the TADA Act for ulterior purposes is concerned. Whether it is the Congress (I) Party or the party about which Mr. Gavitam of BJP was speaking so much, it is the same thing. What happened in Rajasthan ? It has been applied against the trade union workers. When the electricity workers were on strike, the TADA Act was applied against them. rs the trade union movement a terrorist or disruptive activity ? But it appears that it has been sought to be projected like that under this Act. Naturally, if this power is given to the Government, it will be used, in that manner only.

Has this law ever been used against the perpetrators of political terrorism, against those who have criminalised politics, and against communal terrorists ? Has it ever been applied against the perpetrators of economic terrorism, against those who have disrupted the financial system which the scam has proved ? It has not been used at all. Are they not acts of terrorism against the people of this country ? You do not want to use it in the interest of the common people of the country, but you use it for a particular purpose. So, I stand to oppose it and I cannot agree to anything put down in that.

Now, the question that arises is that this will be used against the political workers. There are so many examples. But, for want of time, I cannot go into those things now. But what I want to say on my behalf and on behalf of my party is that I demand that the Bill be withdrawn and the TADA ACT itself be allowed to lapse.

On behalf of my party, I again say that we oppose this Bill, the TADA Act itself, in its totality and it must go or anything of that kind must go lock, stock and barrel and I feel that there is no need for such an Act to be on the Statute Book. Thank you, Sir.

SHRI KAMAJL MORARKA (Rajasthan) : Sir, the TADA (Amendment) Bill, which is before us today, really has two parts. One is the extension of the existing TADA Act by two years and the other consists of certain amendments.

Sir, to the amendments mooted by the Government, I do not have any particular objection, because some of the amendments are to safeguard the people who are accused of terrorist activities. There is one amendment which says that the police officer of a certain rank has to authorise the recording of the offence which I think, is a good thing because the more draconian the law, the more safeguards should be there to see that it is not misused.

Another portion says, which was a lacuna in the original Act, that when there

is a co-accused—especially when there is a conspiracy, ordinarily other people like abettors or co-conspirators or co-accused are there—he is to be charged and tried in the same case together with the accused, to which I have no objection. Adequate safeguards are there. They have said that co-conspirators or co-accused have to be tried in the same case. That is all right.

There is another amendment which says that beyond 180 days if the investigation is there, the reasons for detention have to be given. There I think the period of 180 days is enough. This is one part of the Act which tends to get misused. I normally, as a liberal democrat, would be against preventive detention and I would be the most vocal person to say that such Act should not be there on the Statute Book. But, unfortunately, the events and the type of events that have overtaken us in the last few years do not allow me to take such an unequivocal attitude towards such Acts. But I do feel that the implementation of the TADA Act ever since 1985 has been quite different in different parts of the country. And as my esteemed friend, Mr. Ashis Sen, has just now said, and if it is a fact that TADA has been used against trade unions in any State, I am afraid that is a very evident misuse of TADA. I would suggest to the Home Minister that after some time, he can get it examined and come with a fresh Amendment, whenever he feels like, whereby he can make TADA very stringent and very strict for people who are terrorists or who have designs of armed insurrection against the State or of bomb blasts or some such activity, but at the same time safeguard the normal democratic rights and see that they are not suppressed by the Government through this Act because the Government may feel inconvenient if a particular section of people goes on strike or resort to some other normal social protest. The TADA should not be used to suppress such movements. Sir, I do not know, I do not have with me here the definition of 'terrorism' or 'disruptive activities' under the Act. I am sure that with a suitable modification of the description, we can safeguard the misuse of TADA as my friend, Mr. Ashis Sen has pointed out.

Sir, I will now mention only one or two things of a general nature. Sir, this Act was first enacted in 1985 when Punjab Was the scene of activity as far as terrorism was concerned. Now, as the statement of objects and reasons has stated, it has spread. But, Sir, I am on a different point. And that is, after 6th December, there is a different type of terrorism which has been injected into the body politic of the country. How do we deal with that terrorism ? Sir, I live in Bombay. I was born and brought up in Bombay. We are discussing bomb blasts, we are discussing the January riots, we are discussing so many things. But nobody says that there is a particular party, a small party, which has a leader, who makes statements which amount to open terrorism. If that is not disruptive activity, I do not know what can qualify to be a disruptive activity. He has a newspaper whose circulation is going up because of absolute profanities that he writes in that newspaper. And this one newspaper, one political party, one leader is giving certificates of patriotism, is giving certificates of being a betrayer or a traitor. And the Government is helpless. I have not seen the Maharashtra Government being able to act against that person. And permit me to say, Sir, that much of the problem in Bombay today is a result of what happened on 6th December riots in December and the riots in January, and the inaction of the police. This morning, in the Question Hour, this subject came up. To my utter horror, Mr. Suresh Kalmadi gets up and says that we should not make any statement which demoralises the police. I do not understand this. If the police is not doing its job properly, it is the Parliament's job to comment on it. Now, Sir, there is the recent case of the filmstar Sanjay Dutt. I think, it is very obvious that it is a misuse of TADA. Okay. He is found in possession or he confessed to possess an AK-56 rifle without a licence. It may be an offence under the Arms Act, it may be an offence under some other Act. How does it qualify him as being a terrorist or, much less, involved in some conspiracy? Anybody who stays in Bombay with a normal sense of proportion would not believe it. But then the whole thing is that sensationalism has become a part

of the whole psyche not only of the political system but of the police also. Sir, in Bombay, because they have not been able to catch the culprits of bomb blasts, they have not been able to do anything; concretely on exactly what has gone wrong in Bombay, they have found one person with a high profile, whose father is a Member of Parliament. So, it is flashed on the newspaper putting him on the defensive. Okay, you have arrested one person, and whether the TADA should be applied or not is again a matter which is *sub judice*. But there is an echo in not all newspapers, but in one newspaper and in the Assembly that his father should also be arrested because he is staying in the same house. Now, Sir, I submit to the Home Minister that he must use his good offices to see that we do not carry these things which will become a subject of public ridicule. Anybody who is found to be anti-national should be dealt with firmly. I don't think there is any difference of opinion on that. But the very term 'anti-national' or 'terrorist' or 'disruptive activity' must have some evidence, and merely because somebody is acquainted with somebody socially, it should not be taken as evidence. Unfortunately we in political life keep meeting all sorts of people. Certainly before shaking hands, we cannot ask that person's credentials, and somebody takes a photograph and somebody prints the photograph somewhere, and we are just put on the defensive. This is a new problem that is coming up. I think if TADA is there and if we seriously mean to implement TADA, we have to be careful. It is a double-edged weapon. We all know. It is a very unpleasant thing to do and even the Home Minister definitely will not be very happy using TADA. But if we have to do it, let us like a good surgeon use it to cure and not use it to punish people who are innocent.

In Punjab, there is a talk of human rights. I am not a great champion of Amnesty International who are giving their own comments. But the fact is that there are large-scale complaints that local police officers arrest people; there is no evidence and they keep them in jail for months together. Because we are in Bombay and

because some high-profile people have been arrested, the matter has come into sharp focus. I do request the Home Minister— and Mr. Madhavan suggested very rightly—that there should be some machinery at your level, at the Home Minister's level where he can review periodically as to what follow-up action has been taken and review those cases to see whether there is evidence of terrorism or disruptive activity and where there is no adequate evidence, those cases should be dealt with under the normal laws, rather than under TADA

With these few words, I do hope the Home Minister will consider it.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : Shri Y. Sivaji, not here. Last speaker is Mr. Jagmohan.

SHRI JAGMOHAN (Nominated) : I support the Bill. The need for its extension is obvious. But what I would like to emphasise is that passing law is one thing; implementation of that law is very different. And what is the impression in the minds of the people when a particular law is being implemented ? We have the Criminal Procedure Code and Preventive Detention laws and so many other laws. But the law and order has worsened. Terrorism has increased. Why ? It is because these laws have not been faithfully implemented and they have been trifled with. I gave specific cases of murders and kidnappings under which this TADA was applied as it should have been and as is the intention of the law. Mufti Mohd. Sayeed's daughter was kidnapped. The kidnappers were arrested when I was there. I know all the details. He was prosecuted under TADA and the case was sent before the TADA court. Then four Indian Air Force officers were murdered. The murderers were arrested and TADA was made use of and the cases were investigated and almost finalised. Then Mr. Lassa Kaul, Station Director of All India Radio was murdered and his murderers were also apprehended and TADA was properly used. Then the Vice-Chancellor of the University and also Mr. Khera of HMT were mur-

dered and there were so many other cases. I can give you a number of cases. The culprits were all arrested during my tenure and TADA was effectively used. Other provisions of the law were also used. Since the State machinery did not exist, these cases were handed over by me with all the material and facts to the CBI and a designated court was established in Jammu so that these cases could be effectively dealt with and finished within a particular time as was the intention of TADA that speedy trial should be there. What has happened after three years ? After I left, false propaganda was spread and under the pressure of some quacks, the designated court at Jammu was rendered ineffective—virtually abolished and cases sent back to Srinagar where it is impossible to hold trial. All the labour was wasted. The people are making a joke of TADA now. I want to ask the Home Minister to give a statement whether all those cases which were referred and handed over to the CBI were dealt with and what happened to them after three years. He may not have the details now. He could kindly collect them and send it to me if it is appropriate and then we can discuss it further. In fact, if you bring laws like this and then enforce them in the manner in which I have described, you are making a fun of these laws and people will lose respect for them. Moreover, the deterrent effect which you seek to create will never be there. That is why, in spite of all the laws you have the implementation is defective. The result is that terrorism is increasing. Today, people have the guts to come with tonnes of explosives and set of explosions. We had thirteen explosions in a day, in Bombay recently. These things take place in spite of so much of police and so much of money being spent. This is because the atmosphere is such that they think the Government cannot do anything.

My second point is about the persons detained under TADA. I would like the hon. Home Minister to look into it. Let him supply the information, if not now, subsequently. This is in regard to 72

cases where persons were detained under TADA. Is it a fact that the jail staff got them released ? Mr. Saxena, my successor, probably, ordered some sort of an enquiry. What happened to that ? If you arrest people in Jammu and then released them after ten days, or, some staff issue a manipulated warrant and get the prisoner released, what is the use of arrest? I would like to know how many of the murderers', people who were accused of murder, were got released by presurising Mr. Saxena and his having agreed to it, in exchange of some persons. This information can be collected by the hon. Minister whether all these murderers who were cited and against whom evidence was there were exchanged for certain persons who were kidnapped. How many cases were there ? This information may also kindly be given.

Another point I would like to mention is, use of TADA or other action that you take are all part of the overall atmosphere in which we function. They are part of the overall environment in which we function. There are certain I.A.S. officers, a handful of them, who are trouble-makers, who are disrupters. Their record is known. These gentlemen have the temerity to instigate writing of representation to the United Nations. They do not write to the Indian Parliament. They do not write to the Indian Supreme Court. They do not write to the President of India. They write to the United Nations. And this great country keeps them. They are still there, enjoying and getting fat salaries. If this is the atmosphere we are creating in the country, is it a surprising thing for anybody when one sees what happens in Kashmir today ?

All that I am trying to say is, this is the general atmosphere which has been created. People look to petty considerations instead of the national interest. These things have long-term implications. What could have been done to save Kashmir, with a little bit of effort, with a little cost, has been allowed to escalate. Sometimes, you become soft. Sometimes, you become harsh. The result is, you fall between two stools.

[The Vice-chairman (Shri Syed Sibtey Razi) in the Chair]

Sir, the basic issue is, if you really want to make use of these laws effectively, have the implementation done properly, create a total atmosphere in which these laws can be effectively implemented. The deterrent effect which you want to create will come only when there is a proper atmosphere and when we do not speak with two voices. The use of such laws is not meant for the common people. It is not meant for the students. It is not meant for trade Unions and such other things. It is meant for those people who have bombs in their hands and who kill Air Force officers, who kill people on duty, who kill policemen on duty. It is meant for such people. In this connection, I would like to know whether you can give me a single instance in regard to Kashmir where TADA has been, effectively employed and prosecution completed. Can you give me a single case? We have so much of terrorism. We have so many prosecutors and so many designated courts. What is the behaviour of the courts in Srinagar ? Have you ever tried to find out ? Where there is no provision for bail, people are released. Even when the Supreme Court had made an observation as to how such a thing could happen, no action is taken. If this is the position, how can people take the Government seriously ?

I do not want to take your tune, but these are the basic issues to which we should address ourselves, irrespective of party affiliations, irrespective of our past prejudices and other things. Unless you take effective, sustained and long-term action, nothing can be done.

About terrorism, it has been said that if your policy changes from time to time or from day to day, you have already lost the battle. Therefore, what is the use of incurring so much of expenditure, keeping so much paramilitary force, so much of anxiety when they will to set right the matter is not there and the policies are neither consistent nor clear ? What you want to do, nobody knows. Therefore, the Government must act on certain principles, must not compromise. What is the fault of Srinagar SSP?

Somebody has done something wrong and that SSP is asked to handed over that, somebody to the army, because he wanted for interrogation. The whole thing has been distorted. Why ? How has the eruption occurred ? During last year, what was the atmosphere created Why has the police 'revolted' and has captured the armoury ? It is with them. And now you require the army to disarm them first. How was this come about? So, please, even now it is not too late. Let us be very clear. Pakistan is doing all the things, ISI is doing all the things. I quite agree with you. Yesterday the hon. Home Minister made the statement about the bomb blasts. I quite agree that the ISI hand is very clear. When I went to Kashmir and said that this was the position, that Moulvi Farooq was killed by agents of ISI, has dead body was snatched from that hospital, it was not said that ISI has dona it, it was said that Jagmohan has ruined the solemnity of the funeral procession by getting it fired upon. Look at the way how the things are distorted and blown up. Poor fellow the Governor was sitting in the "Public hearings" attending to 600 persons. He did not know that somebody had shot the Moulavi and that he had been taken ta the hospital. And the police officer whd was on duty at that time, that police officer slipped away from the hospital. He has now been brought back as Additoinal Director General of Police. And you want to solve the problem of terrorism ? Now you accuse the ISI but at that time you accused the Governor. It was clear that the persons who killed the Moulavi were agents of the ISI. Your own investigation subsequently revealed the same thing. That is why the ISI took courage even to kill Guru, that is why ISI took revenge from those people who were trying to talk to you. They knew what this Government could do. When Benazir Bhutto was talking from the other side "Jagmohan, get out, Jagmohan, get out", here also from both sids people were saynig "Jagmohan, get out, Jagmohan. get out." This k how the atmosphere at encouraging terrorism has been created. This is the basic issue. Let us see deep inside. What have we been doing for the last so many years, whether we have been indirectly encouraging terrorism and subver-

sion. Anyone' who wanted to take cor-rectlve action was thrown away. Aad the unfortunate part is that the nation has lost the capacity to do the correct thing. You are throwing the SSP to the wolves today. Is it right to remove him ? Ours is. a great State. It must have the power and courage to say the correct thing and fight for justice. Once you show the determination to do the correct thing, I am sure, these trouble makes will run away within "10 days". But if you show weakness and cowardice, others will take advantage. What is the propaganda which Pakistan ISI has been doing in Kashmir?

वे कहते हैं--

“शुद्ध रहो, तुम्हारा मुकाबला एक निहा-
 यत बज्रदल काम से है।”

This is what they say, this is how they are building the morale of terrorists. Our confusion and contradiction have proved their point. This is how they built up the movement in this area. And this is how all the internal subversion in police has taken place. Even the policemen went across the border to get training from the ISI, using the police jeeps. These were the people who were patronised. These were the people whom the previous Government was patronising. And what action was taken ? Only about 120 subversive employees were apprehended. I dismissed them. Immediately, internal subversion virtually stopped. People started coming to offices. Once there was a one-day strike after shifting of the capital to Sri-nagar. Employees came on foot to the offices because they knew that somebody would ask them to explain. I want a statement from the Government. During the 'ast two years how many strikes have taken place, and how many Government officers who absented themselves, have been punished ? For three months there was strike. There was no action. For 74 days there was strike. No action. Everybody was drawing his pay. Whenever there is a call for *hartal*, there is no action. . . (*Interruptions*)

I will stop if you like. The question is that there is no action. They are all getting their pay for the days they have absented themselves unauthorisedly. If that is the atmosphere of indiscipline that we have

defeated then believe me with the TADA or With no TADA, you cannot solve the "problem of terrorism or even that of ordinary life.

Thank you very much.

SHRI S. B. CH/WAN : Mr. Vice-Chairman, Sir, I appreciate the sentiments expressed by hon. Members. They were very someone making suggestions which, in fact, were motivated not by any other consideration but with a view to see that things are done in a proper manner and that we are able to implement what we pass in this House.

Sir, I fully agree with the sentiments expressed by some of the hon. Members that there has been deterioration in the entire atmosphere and that there is lack of discipline which needs to be enforced, and especially when it comes to a uniformed force, there can be no excuse for showing any kind of inefficiency.

.. • I quite agree with hon. Member, Shri Jagmohanji, About the kind of cases he has pointed out, I would definitely try to find out how far they have proceeded, wherein the designated court was located in Jammu the enquiries were handed over to the CBI and still the court was wound up. I do not know what must have happened to the cases which were still lying with the CBI

SHRI JAGMOHAN : The cases of Lassa, Kaul and others were sent back to Srinagar. That is all, very simple. No one can go there and give evidence,

SHRI S. B. CHAVAN : About the two or three cases which the hon. Member pointed out, I will definitely go into the matter and try to find out.

SHRI JAGMOHAN : I have given the list to you as an illustration.

.. SHRI S. B. CHAVAN : Sir, I quite see the point. Hon. Member, Shri Gautam, said that we would have to go deep into the matter and find out why young people are resorting to this kind of violent activities

and joining the ranks of those who call themselves terrorists or insurgents. May be, socio-economic reasons may be there. Especially where the Naxalite activity is there, this kind of motivation I cannot rule out. But that is not the reason for taking to arms. It has become a more easy avocation for earning money. These are the people who take to arms, threaten people and extort money. Without any investment you can just get away with that sort of activity. That is also one of the reasons why people even from affluent classes are also resorting to this kind of activity. There is no reason why we should not go deep into the matter and try to find out whether the question of unemployment is also one of the factors which need to be gone into in more detail. What Government can possibly do is to change the educational system in such a way that they should be able to stand on their own and to give them technical, vocational education by which it should be possible for them to stand on their own and not become a liability to the society.

There has been a common sort of complaint about misuse of the TADA. I can assure the hon. Members that I will again issue guidelines to all the State Governments. Ultimately, passing this legislation does not necessarily mean that every State Government has to impose the TADA. They have to issue fresh notifications whether they would like, to impose the TADA in their State or not, whether it should be applicable to the entire State or a part of the State where disruptive activity is there, where insurgent activity is there, where terrorist activity is there.

It is entirely for the State Government to find out as to which part of the state is infested with this kind of a problem which needs to be covered under the provisions of the Terrorist and Disruptive Activities Act. So misuse of any legislation by those who rule in different States for that matter cannot be ruled out. It is not merely TADA, but my other enactment also. If we are bent upon misusing the same then there can be hundred ways where you can harass people who are innocent, who are opposed to you,

and still get away with it. Somehow that atmosphere is slightly there. I believe that, irrespective of the parties, the TADA should never be used against political opponents. The TADA should never be used against trade union activists. It should not be used against people who are politicians. But what happens if a politician becomes a criminal or a criminal becomes a politician ? Unfortunately that happens to be the case. This is a very dangerous variety. If a criminal becomes a politician and occupies a very important office and if this Act is to be implemented by this criminal politician, then, of course, you cannot blame the TADA. You have to blame the society which elected him for high office. Somehow they could occupy those high positions. I have come across a number of cases where the TADA has been misused. When the ordinary law of the land is available this was used as a short-cut. A number of State Governments, instead of using the ordinary law, use the TADA for the purpose. I tend to agree with you there. But I don't know what mechanism is there. Having given powers to the State Governments, I can call a conference of the Chief Ministers and discuss the matters with them and bring to their notice that this is how things are happening, that the TADA is being misused and request them to see that this kind of attitude is changed and that no innocent person should be harassed. I will certainly try to do that sort of thing and to the extent possible we will try to minimise such kind of misuse.

Shri Chaturanan Mishra, when he was talking, made a point. Somehow that is his party's line I don't know. I cannot help it. I will request him to kindly appreciate the fact that after these safeguards which we have now provided, no case will be registered against any person under this without the whole thing being scrutinised by the Superintendent of Police of the district. It was being used at the low level. That is why we have given caution that nobody should be prosecuted without taking the permission of the SP. This is another thing that we have provided under this new legislation which we have brought in. Another point relates to those who are co-conspirators, who are the accus-

ed. There is some lacuna in the definition which has to be removed and that is what we have done.

Hon. Member, Shri Ashis Sen, has not been able to appreciate the discretion which, has now been given to the courts, whether it should be an open court or whether it should be *in camera* proceedings. This is one of the things that we have provided for. You kindly appreciate the conditions in Punjab and Jammu and Kashmir. If you, try to set up such kind of a designated court in the Valley and try those people who are terrorists, no witness will come forward to give evidence.

[The Vice Chairman (Syed Sibtey Razi) in the chair].

SHRI ASHIS SEN : Sir, just by way of intervention....

SHRI S. B. CHAVAN : Instead of interrupting me, kindly allow me to finish the whole thing.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : The Minister is not yielding.

SHRI S. B. CHAVAN : Sir, I have got a list of Judges who have been killed. I have a long list of witnesses who wanted to give evidence but they were just finished.

4.00 P.M.

They were just finished. In that atmosphere if a judge feels that the circumstances are such that *in-camera* trial is necessary, even then are you going to say let there be open trial ? If open trial is there then the rate of conviction will be lower. In this kind of trial I don't think the witness will ever come and no judge will be prepared to try such cases. That is why it will defeat the very purpose for which this legislation is being brought about. For the first time, I have heard Mr. Chaturanan Mishra saying that because some people say that human rights are violated here so we should not take up such a legislation. What other say is not a matter which should worry us so much as the conditions prevailing in this country. When there is terrorist activity, if you are really serious about it, barring the misuse, if it is properly implemented and if the police offi-

ts adopt a hundred per cent correct attitude, I am sure, this kind of legislation will definitely give results. That is why I request that it should be seriously considered. I quite see that some kind of differentiation is there. It will be very difficult for me after having given the powers to the States to ask why this man was tried and why the other man was not tried. This is something on which I cannot personally say anything. I have merely said that I will try to have the views of the Chief Ministers in order to understand what exactly and how exactly they are going to remove the misunderstanding that it is being misused.

I agree with the hon. Member Mr. Madhavan that power should not be given to the officers, but it should be given to the Designated Court. If this amendment is there, I will accept it. This amendment was only to see that the Court is informed about that attached property within forty eight hours. Of course, after that it is not within the power of the investigating officer. If we leave this lacuna that the officer can also attach the property, it can be misused. There is no doubt about it That is why I am in full agreement with him. If the amendment is there, I will definitely accept it.

Then Mr. Kamal Morarka has mentioned that a period of 180 days is quite adequate. I think there might be a few cases where within 180 days it might not have been possible to complete the investigation. That is why it is there that any extension has to be given by the Designated Court. It is not the executive authority which can give this kind of an extension The judicial officer will definitely apply his mind. He will have to produce special reasons as to why he is asking for an extension. That is why it has been prescribed for one year. We will try to minimise the same. After some time we will see if any amendment is called for. So, I have taken note of almost all the points.

SHRI S. MADHAVAN : What about Section 20 A (1) ?

SHRI S. B. CHAVAN: What is it about ?

SHRI S. MDHAVAN : It says that no information should be recorded.

SHRI S. B. CHAVAN : It is a wry technical sort of thing. It is a question of changing the words.

SHRI S. MADHAVAN : A case should not be registered ?

SHRI S. B. CHAVAN : Whether a case should be recorded or registered is the only point which the hon. Member is making. I will see your point. If you give it a proper form, I will accept that amendment too. So, I request the House to kindly pass this Bill.

श्री मोहम्मद सलीम : मि. वाईस-चेयर-मैन, मंत्री महोदय ने बहुत अच्छी-अच्छी बातें सेफगार्ड के बारे में कही हैं। जब भी ऐसा नया विधान आता है, ऐसी बात कही जाती है।

1985 से, जब से टाडा बना है हमारे देश में, टेरॉरिज्म रोक नहीं गया, वल्कि खुद इसमें कनफेस किया मंत्री महोदय ने कि पंजाब में, कश्मीर में यह थी और अब यह पूरे देश में फैल गई है। टाडा उस वक्त भी थी और अब भी है, लेकिन टेरॉरिज्म को अब रोक नहीं पाए हैं। इसे सिर्फ ला एण्ड आर्डर का क्वश्चन अगर आप देखेंगे, तो आप सिर्फ बिना विचार के रद्द कर देंगे, अंदर डाल देंगे, तो सब ठीक हो जाएगा, तो यह गलत है।

हम इसका विरोध तो शुरू से ही करते आए हैं और अब भी कर रहे हैं।

मंत्री महोदय ने जो जवाब दिए, उसमें भी इस बात का ध्यान नहीं दिया गया है कि इसका मिस्युज नहीं होगा। वह बता देते कि इसका मिस्युज नहीं होगा। राजस्थान में हमने देखा है कि मीट-सैलर के पास जाकर बताया उसके घर में कि तुम्हारी दुकान से छुरे निकले हैं, इसलिए टाडा लगा दिया गया।

THE VICE-CHAIRMAN (SHRI SYED SIBTEY RAZI) : You please come to the point. Please be brief.

श्री मोहम्मद सलीम : अब मीट-सैलर के पास करने नहीं रहेंगे, तो किसके पास रहेंगे। तो जो सरकार आती है, राज्य सरकार हैं, जिनको लगाना चाहते हैं, वह अपने विरोधी

... (स्यवधान) त्रिपुरा में हमने देखा है अपनी पाठ्य के लागू के ... (स्यवधान) के खिलाफ उसका इस्तेमाल किया गया है। तो टैरोरिज्म को रोकने के लिए टाडा का इस्तेमाल कहाँ किया आपने? अगर करते, तो आज वह कश्मीर, पंजाब से निकल कर पूरे देश में नहीं छा जाता। अब एक तरफ आप राजनीतिक व्यवस्था ऐसी ला रहे हैं जहाँ कि टैरोरिज्म पूरे देश में बढ़ रहा है... (स्यवधान) हम इसका विरोध करते हैं।

उपसभाध्यक्ष (सैयद सिबते रशी) : आप क्या कहना चाहते हैं? प्लीज बी ब्रीफ।

श्री मोहम्मद सलीम : महोदय, मैं मंत्री महोदय से फिर अनुरोध करता हूँ कि वह इसे वापिस ले लें। इसको बढ़ा कर दो साल, दो साल से चार बार इसे बढ़ाया गया है, लेकिन हमारे देश में टैरोरिज्म का शबलम साल्व नहीं हुआ है।

SHRI ASHIS SEN : Since the Home Minister has not responded to our request, we are not participating in the passing of the Bill and we are walking out.

(At this stage, some hon. Members left the Chamber.)

SHRI INDER KUMAR GUJRAL : The point that my hon. friend the Home Minister, should keep in mind is that the authority and the powers given to the investigating officers here are far more diabolical than in any other law. If you kindly look at section 7A, it says, "If an officer investigating an offence committed under this Act has reason to believe that any property in relation to which an investigation is being conducted is a property derived or obtained from the commission of any terrorist act and includes proceeds of terrorism, he shall, with the approval of the superintendent of police, make an order..." The main point that I am trying to make is about giving such an authority to an ordinary policeman. Already, we know how the police functions. If you give this authority also, it will be creating big problem. Why do we have the designated courts? Before

officer can take action, he must at least go to the designated courts so that at least the judge can apply his mind and see whether it is correct or not. Only to notify the superintendent of police and take charge of the property is an action which is going to create a big problem. The investigating officer is required to only inform the designated court. Neither does he take the permission nor does he try to convince you even *in camera*. This is something to which I take strong objection.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I shall now put the motion to vote. The question is :

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

The motion was adopted.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 5 (Insertion of new section 7 A)

SHRI S. MADHAVAN (Tamil Nadu) : Sir, I move ;

"That at page 2, lines 24-25, the words "of the officer making such order, or" be deleted."

The question was proposed.

SHRI S. MADHAVAN : Sir, the hon. Minister agreed to change the wording, that after attaching, it must be released only by the court. The words, "of the officer making such an order" must be deleted and the 'designated court' can remain.

SHRI S. B. CHAVAN : There is only one slight modification. In the case of drugs, the time is the constraint. It does not allow that much time to pass. In all other aspects, I agree with you. If you can possibly make some kind of a change in your amendment, in that altered fashion,

I am prepared to accept it. That is the slight change.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Are you going to withdraw your amendment ?

SHRI INDBR KUMAR GUJRAL (Bihar) : Will this cover section 7A also ?

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Madhavan, are you accepting the amendment ?

SHRI S. B. CHAVAN : I will accept the amendment in the amended form that I have requested for. It might take some time but I think if the hon. Member can give it immediately, I have no objection. If he is not able to give it immediately, I request him to withdraw it.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Madhavan, are you willing to withdraw the amendment ?

SHRI S. MADHAVAN : Yes. I withdraw my amendment.

The amendment was, by leave, withdrawn.

Clause 5 was added to the Bill.

Clauses 6 to 8 were added to the Bill.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Now we will take up clause 9. There is one amendment by Shri S. Madhavan,

Clause 9 (Insertion of new section 20A)

SHRI S. MADHAVAN : Sir, I move : That at page 3 :—

2. (i) line 19 for the word "information" the word "case" be substituted.

(ii) line 20 for the word "recorded" the word "registered" be substituted.

The question was proposed.

Sir, I have already pointed out the problem. Clause 9 says that, "...no information about the commission of an offence under this Act shall be recorded by the police..." A police officer in-charge of a police station, as soon as he gets information about an offence either,

I.P.C. or the Cr.P.C. or any law, must record it. Further investigation as to whether it is a cognizable offence or not is not relevant. An offence under the TADA is a cognizable offence. So, if he records the information, then it will go a long way. I think the Government wants it. When the Minister was reading the statement, he mentioned about the investigation. So, the word "investigation" must be used. To say that mere information should not be recorded is not good. So, I have moved the amendment to replace the word "information" by "case" and the word "recorded" by "registered". These two words I wanted to be substituted.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Kamal Morarka.

SHRI KAMAL MORARKA (Rajasthan) : Sir, I think the provision as suggested by the Government is correct; it is a safeguard. Mr. Madhavan is technically correct that any information should be recorded. As we hear the debates, it is clear that a lot of misuse is taking place. So, somebody will record information which will not fall under the TADA and he wants to record it under the TADA. So, it is always better to get the permission of the Superintendent of Police. This is an adequate safeguard.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Madhavan, are you willing to withdraw your amendment ?

SHRI S. MADHAVAN : Yes, I withdraw my amendment.

The amendment (No. 2) was by leave, withdrawn.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

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

SHRI S. B. CHAVAN : Sir, I move ;

That the Bill be passed.

The question was put and the motion was adopted.