

MR. DEPUTY CHAIRMAN: I have to inform Members that the Business Advisory Committee at its meeting held today, the 12th August, 1986, allotted time for Government legislative and other business as follows :-

| Business   | Time allotted |
|--|---------------|
| i. Consideration and return of the following Bills, as passed by the Lok Sabha ;                         |               |
| (a) The Central Duties of Excises (Retrospective Exemption) Bill, 1986 .....                             | 2 hrs.        |
| (b) The Apprentices (Amendment) Bill, 1986 .....   | 1 hrs.        |
| (c) The National Security Guard Bill, 1986 .....   | 2 hrs.        |
| instead of one hour,   |               |
| a. Discussion on the Resolution regarding Programme of Action on the National Policy on Education, 1986. | 3 hrs.        |

The Committee recommended that the discussion on the Resolution under article 249 of the Constitution be completed today and the Minister would reply tomorrow, the 13th August, 1986, and the voting would take place thereafter around 12.30 P.M.

The Committee also recommended that the current Session of the Rajya Sabha be extended up to the 22nd August, 1986. The House would accordingly sit on Wednesday, the 20th, Thursday, the 21st, and Friday, the 22nd August, 1986, in order to transact Government and other business. There will be no Question Hour on these days nor will the House sit on Monday, the 18th and Tuesday, the 19th August, 1986.

The Home Minister will make a statement regarding the assassination of Gen. Vaidya, at 6-00 p. M. today. Members may seek clarifications tomorrow after the voting on the Resolution is over.

### STATUTORY RESOLUTION IN PURSUANCE OF ARTICLE 249 OF THE CONSTITUTION—contd.

MR. DEPUTY CHAIRMAN: Mr. Darbara Singh:

SHRI DARBARA SINGH (Punjab): I would like to add in general to what the other Members on this side have said. All the hon. Members are very much in the know of our Constitution. I would like to say that there is the Article 249 in our Constitution. Article 249 is not being brought in. It is already in the Constitution. People are unnecessarily dragging it to their advantage. While finishing his speech, Mr. Gurupadaswamy has suggested and come out with a proposal that it should be altogether dropped. I would like to say a few things in the interest of their own party. The Resolution under Article 249 for granting special powers to the Centre to seal the borders in the North-Western States has to be seen in the context of the political situation as it has developed in the recent years, particularly during the last two years. Sir, it is very pertinent whether we should seal it properly and see to it that that area is properly protected and there is no crossing over from that side to our side for terrorist purposes. There are no two opinions in the country that India is passing through a most critical period in its history. The phenomenon of the new spurt of communalism and the new wave of terrorism cannot be delinked from each other. They are manifestations of the same tendency. I would say that they are two sides of the same coin.

Everybody knows that such forces are directly involved in promoting and strengthening the secessionist forces and organised terrorism in particular. Everyone in this House knows it. Even the Punjab Chief Minister, Mr. Surjit Singh Barnala has admitted it. Before I elaborate the point, I want to remind the House and particularly those Members of the House who have participated in the freedom movement about it. It is said that the people's memory is short I believe it is not as short as people think. I remember that, on the eve of

Independence, the British soldiers formulated a plan. This plan suggested disintegration of India into smaller States. Social scientists call it as a plan of balkanization. This game of theirs failed because the entire nation stood behind Gandhiji and Pandit Jawaharlal Nehru. I have a feeling that somewhere a new plan to balkanise India has been conceived. After nearly 40 years of Independence this plan has posed a new threat to India's integrity and unity. Let us not close our eyes to this. If you accept my assumption that a new plan to balkanise India is proposed to be implemented, then your entire perspective would change. The threat to Indian unity and integrity is not only real, but it is increasing. This being the situation, some drastic measures need to be taken to defend India's unity and one amongst them is to break the linkage between the secessionists and their mentors from outside India. This is the first step. Once you break the linkage of the terrorists with the foreign forces, you can create objective conditions to deal with this menace more effectively. Being a Punjabi, I know what type of border we have. It is an open border. And one can go and see without any difficulty an open border. And this problem has been more complex because of the linkage which the terrorists have built up with the smugglers, both Indian and those who operate from the other country. In fact, the line of demarcation is becoming thinner and thinner. Sealing the border has an indirect bearing on the question of defending India's unity and integrity. Let us not minimize its importance. There are certain rare moments in the life of the nation when we should sink all differences and defend the country's unity. I think that moment has come. And the way one of our Generals was assassinated only day before yesterday should open our eyes. With all the humility at my command, I would request every Member of this House to support this Resolution. If we fail to do so, we will be failing in our national

duty. Perhaps, future generations and future historians will not forgive us. We should not forget that our border is very sensitive and we have to protect it. To

those who say that the Central Government should not take care of it, I would like to say that this is the first and foremost duty of the Central Government to see that the interests of the country are kept in the forefront. It is no; just this Government or that Government, it is the unity of India. Disintegration should not take place. It is our first and foremost task to keep the unity of India. While speaking on this Resolution, we should not forget that our first and foremost task is to keep the unity and the sovereignty of India. We should not depart from it. We should not think that some powers had been taken over from the States. It is not eroding their powers.

It is not so. It is supplementing the law and order which is kept, by the States. It is not eroding their powers. It is for this purpose that this Resolution has been brought. I humbly say that it should be supported by all Members whether it is on the Opposition side or this Side to see that India is not balkanised, it remains as it is and stronger it grows under the leadership of this Prime Minister who is up and coming.

With these remarks, I fully support this Resolution.

SHRI JASWANT SINGH (Rajasthan): Mr. Deputy Chairman, Sir, I agree with my distinguished colleague, Mr. Salve, that this is indeed an historic occasion. These are extraordinary times that we live in. And it is a measure of the times and their extraordinariness that this House is today seized of a matter which it has never, in its history of 36 years, ever debated. It has never felt the overriding urgency of national interests to invoke Article 249. It did not feel the necessity in 1962, when large parts of Assam were over-run and when the rule of the Government of Assam no longer ran over those parts. It did not feel the necessity to do so in 1965 when we faced a situation of an invasion from the west. Article 249 remained uninvoked in 1971. It remained uninvoked even in the fraudulent emergency that was imposed on this country in 1975. It remained uninvoked in 1983 when a wholly fraudulent and a totally unacceptable election was imposed on the State of Assam resulting

[Shri Jaswant Singh]

in a near total breakdown of law and order there. If therefore Sir, today the Government comes forward and for the first time in the history of Parliament, article 249 is invoked, then I am led to one conclusion: that in the very invoking is implicit an admission by this Government, of the groceest failure on its part to perform two primary functions, which are to protect the life, liberty and the freedom of its citizenry and to protect the frontiers of the State. I do not have to condemn this Government. Events are condemning it. I do not have to speak ill of this Government. The very invocation of article 249 speaks ill of the performance of this Government. While, therefore, in no uncertain terms decrying the cumulative failures of this Government I rise and say that nevertheless, we in the **BJP**, have taken a decision to support the Resolution, to support the Resolution with reservations because we have placed above all the overriding consideration of national interest. The Government has come forward to us and has said that national interest is involved. Our own dispassionate assessment of the situation leads us to believe that even if it is sheer incompetence of the Government, national interest is indeed involved and therefore we put aside our reservations and we lend our support to this Resolution. (*Interruptions*)

I am not encouraged, Sir, by the applause of the Treasury Benches. What are my reservations? I will state my reservations and I will then give my reasons for support. First, I will state my reservations very briefly and succinctly and then I will give my reasons why despite our reservations we support this Resolution. My first reservation is about the competence, the capacity and the effectiveness of this Government to govern. About the competence, the capacity and the effectiveness of this Government to govern, that is my first reservation. What they demonstrate is an inability to convert into effective action a declared intent. Thus you have persistently demonstrated failure. And you have demonstrated failure you do not deserve the overriding powers of article 249. That, Sir, is my first reserva-

tion. What is my second reservation? In the Government's armoury already exist, and while listening to other speakers I made a brief list of them; in the Government's armoury already exist the following provisions under law, specifically meant for dealing -with precisely the kind of problem that the Government says it now has. Between 1980 and 1986, 15 directly related enactments have taken place. I do not have the time to read all of them out. I shall give instances of only a few. The Smugglers and Foreign Exchange Manipulators Forfeiture of Property Amendment Act, 1980; The Arms Amendment Act, 1983; The Punjab Disturbed Areas Act, 1983; The Chandigarh Disturbed Areas Act, 1983; The Armed Forces Punjab and Chandigarh Special Powers Act, 1983; the National Security Act, 1984; The National Security Second Amendment Act, 1984; The Terrorist Affected Areas Special Courts Act, 1984. It is an endless list, and without making any reference to any other source, I made it less. There is a minimum of at least fifteen special provisions that the Government has already empowered itself with. If despite this, the Government has felt the need to come forward and say 'National interest is still at stake; give us article 249' or 'the Union of India is in danger', then whilst proving its incompetence, it enjoins upon us to give to the Government what it is asking for.

I would like to give one more instance of this Government's incompetence, very briefly. You talk about the difficulties in the State of Punjab. The State of Rajasthan, from which the hon. Home Minister has benefited by being returned to the House, has a porous border. It has much more porous border than Punjab has. You have a Government there which in political harmony with the Central Government. Yet, in these last two years, never ever has so much smuggling taken place, so much illegal infiltration taken place, so much crime taken place in the border areas of Rajasthan than ever before. What is the state of Kutch, in the State of Gujarat? Who rules Gujarat? Please pay heed to all these things because merely by accumulating more and more powers with

yourself, you are not going to be able to deliver the goods when, where you actually have the powers, you have failed to do so.

What is my next reservation? While handing over power under article 249, my next reservation is institutional; because this Government and the political philosophy that this Government represents, has in the history of its governance, destroyed institutions. It has destroyed political institutions it has destroyed infrastructural institutions. It has destroyed political institutions to the extent that today we face a situation wherein there is no distinction between party, Government and the State. Till lately, we faced a situation when an individual was equated to the State. Infra-structural institutions have been destroyed. Therefore, now, when you take more powers, we are not convinced that you will have the wisdom or that you will have the wherewithals to use that power wisely.

What is my next difficulty and reservation? It is about loss of confidence. Please mark my words and I appeal, to you that the Treasury Benches ought to reflect very deeply on this. There is a very serious and a great loss of confidence between the governed and the Government. A Government — irrespective of the form you have - has a certain amount of acceptance implicit in it. There is such a\* loss of confidence now that you refer to anything which is not of the Congress philosophy as 'they' only\_ you have remained and become 'us'. And when you have created such a divide within the country, the resultant loss of confidence between the Centre and the States, between these Centre and the Congress philosophy and those that do not so subscribe, is a wide yawning chasm. Unless you fill that gap, governance of India will be an increasingly difficult task.

Let us assume good intentions on your part. A doubt arises and despite all the good intentions on the part of the Government, I pose a question to this Govern--ment. What is the value of subjective good intentions in the act of governance. No^

body in this House or in the other House has bad intentions. I cannot possibly charge anyone in this House or the other House with bad intentions. I think all of us here come with good intentions, come filled with a zeal to work for the country, and the people. But unless you are able to complement that with administrative effectiveness, you cannot even deliver goods. And that is my difficulty because such misgovernance leads to absence of harmony. On the one hand you proliferate special status - just the other day we debated Mizoram and «,£ granted special status to Mizoram -- and on the other hand, today we are debating this Resolution. People are struck by the irony of it that we are today debating an article of the Constitution whereby you are going to take over the entire apparatus of law and order\_\_\_\_\_

SHRI N. K. P. SALVE: No, no.

SHRI IASWANT SINGH: With all its trapping. But despite these reservations, we support this Resolution. Despite having scant faith in your ability, not doubting for a moment that you are moved by any malevolent intent, we feel that that only you have in your possession the information to advise the House when national interest is at stake. When, therefore, you so advise the House, we are led to believe that you advise it, even if it is an admission of incompetence, mindful of the gravity of the situation. And mindful of the gravity of the situation, when national interest is at stake, the BIP lends support to this even if we are isolated, as we 'were in the case of Mizoram. The whole House supported it. We opposed it. We believed that it was a wrong step and we continue to believe that it was a wrong step. In the, same way, today, we stand isolated from the Opposition. It does not make us feel happy. But we have the strength to stand so isolated, because our conviction is about this single, overriding criterion of national interest and we apply only that criterion of national interest and because of that we lend our support, as **far** as providing you with powers under article 249 are concerned. There are two or three other reasons why we support this.

[Shri Jaswant Singh]

We, in the BJP, do not hereafter want the Central Government to come forward with false alibis and say. We do not have this power.- we do not have that power; had we that power national Interest would not have suffered. So as to prevent you from coining forward again and saying the same thing, giving alibis, we now entrust you with this responsibility, with this power under article 249. There is yet another reason why we support this. The Leader of our Parliamentary party moved an amendment to this very Resolution. The Government, in its wisdom, has found it fit to accept the amendment and the amendments is going to be moved... (*Interruptions*) In the Preamble, there is going to be a mention of it in principle.

SHRI N. K. P. SALVE: That cannot be a part of the Resolution, Mr. Jaswant Singh. In reference to what Atalji pointed out... (*Interruptions*)

SHRI DIPEN GHOSH: Sir, let us know what is going on. He wants to say something, but he is being stopped.

SHRI JASWANT SINGH: I would like to say why we support this. Next comes the vexed question of Centre-State relations. To our thinking, three fundamental issues are involved. Firstly, BJP is second to none when it comes to protecting and safeguarding the autonomy of function of the rights of the States. Secondly, however, we simultaneously also say that there is no such thing as a dry, theoretical concept of pure federalism because we believe—thirdly—that when peace within the land and security from external forces is to be sought, when national interest is also to be protected, then the real debate in Centre-State relations is not about respective powers; it is about how they are employed. We, in the BJP, hold that the States' powers and the Centre's powers; when it comes to national interests, are integrated powers; they are not separate powers and it is because they are integrated powers, therefore also, standing alone, we lend support to your invoking article 249 and we entrust you with the responsibility of that power.

I will conclude by requesting the had Home Minister to come forward and tell us, after you have got this power, how will you employ it? From here, where? I would also caution the Government, this is the end of the road. You cannot hereafter come forward before the House and say that you need yet more powers. You must now deliver the goods, because if you fail to deliver the goods, what is at stake is not your Government or our Government; it is not you or 'us' who are involved, it is the unity of India that is involved. Please work for that. And if you are unable to work for that, then please go before you cause any more harm to the body of India. Thank you.

SHRI ANAND SHARMA (Himachal Pradesh); Sir, I rise to support the Resolution which has been moved by the hon. Home Minister. The Resolution has generated interest, heat and attracted the attention of the entire nation. What we are discussing is not the powers of the Union, the powers of the Central Government, to invoke Art. 249 -- an article, which empowers the Government of India to enact law, pertaining to those matters which are enumerated in the State List. My esteemed senior colleagues -- Shri Salve and Shri Bhandare - have in great detail discussed Art. 249. Unfortunately, the spirit behind this Article and the is\*, ues which were there and which wer© discussed and debated in the Constituent Assembly have not been appreciated by some of our friends in the Opposition.

i Article 249, we all agree, is a temporary', measure and this particular Resolution specifically says that it is merely for one year. The question of extending it, as Mr. Dipen Ghosh had been referring to, does not arise at this stage.

There has been a reference that there are other provisions in the Constitution which give sufficient powers to the Government, as Mr. Gurupadaswamy has been saying. Sir, if that were the case what was the justification, where was the necessity of having Art. 249 of the Cons-tiution?Tf we refer to the debates in the Constituent Assembly, eminent people like

Dr. Ambedkar, Mr. Saksena were the ones who wanted it. During the debate whether it eroded the federal character of our Constitution, it had been specifically mentioned that the only intention of the constitution-makers was to ensure a strong Centre. There is a reason why we have used the words "Union of India". When the talk of federal structure is coming, I would like to refer to what had been said briefly. In a very forthright speech Sir Gopalaswamy Ay-yangar had said that "we should make the Centre in this country as strong as possible, consistent with leaving a fairly wide range of subjects to the provinces in which they would have utmost freedom to order things as they liked." During the debate on Art. 249, Dr. Ambedkar had said, when the question arose whether it affected the federal character, "that the description of India as a Union, though its Constitution is federal, does no violence to usage." He asserted that the word "Union" has been used to emphasise the unity of the country. "No State has the right to secede from the Union. Federation is a Union which is indestructible." So this was the spirit. Now when we hear that the very right of this Parliament to pass this Resolution in the Council of States is being questioned, are we not in fact questioning the very wisdom of the constitution-makers?

Article 249 clearly states that it has to be invoked when national interest demands so and when the situation is extraordinary. Who is to determine national interest and whether national security is in danger or not? The States do have all responsibility, as has been mentioned by my esteemed friends from the other side. The loyalty of the States is not being questioned here. What is *being* discussed here is that it is for the government of India, it is for the Central Government, it is for the Union, to determine whether a particular legislation is in national interest or not. Whatever is the responsibility of state it is clear that the security of the country is the responsibility of the Government of India, [the nation expects, and, rightly so, from

the Government and from the Prime Minister, Shri Rajiv Gandhi—they *bar\** faith—that the Government will act in national interest to check the growing menace of terrorism and the growing menace of smuggling across the border.

When we say it has to be an extraordinary situation, is the situation which is prevailing today in Punjab and some other parts—where smuggling of arms is going on—an ordinary situation or an extra-ordinary situation? Our friends who have been opposing this Resolution have time and again, often, referred to ill's particular situation, the smuggling which has been going on across the border, and demanded effective action. There is hard evidence that terrorist training camps are there in Pakistan. People are trained there, armed with weapons and sent to India to kill innocent people. Today in the world, particularly in this sub-continent, there is a direct nexus between smugglers, drug traffickers and terrorists. This is not the first time that we are hearing about this. If we look at what has happened in other continents, what has happened in other parts of the world, the situation becomes clear. There is today a new term\* as far as drug trafficking is concerned—Golden Triangle. There is another term which is used—Golden Crescent. Golden Triangle is used for Burma, Laos and Kampuchea. Golden Crescent is for Pakistan, Iran and Turkey. It is clear that in the case of Burma, Laos and Kampuchea, fifty per cent of the opium harvest is with the terrorists, with the ethnic rebels. The same has been the case with some other countries. Particularly in Turkey, a nexus is there between those who are indulging in drug trafficking and terrorists. It has been there in the case of Italy and many other countries in Europe. In Italy we know of the Grave Holes and the Red Brigade. They are also financed through drug trafficking.

Sir in the last one decade 70 per cent of the drugs which have been seized in Europe indicated that the point from where they emanated has been Pakistan. And When this was discovered the drug mafi.

[Shri Anand Sharma]

cate changed their strategy: They changed it so that the exit points are not located or discovered immediately. Delhi, Bombay and some other cities were also used and smuggling of heroin and other drugs has increased to dangerous proportions in this country. If we look at the statistics, or 1983 it was just 183'kg. and today, in 1986, in the first three months it has been 1,300 kg. which has been seized and it is merely ten per cent, that what the estimate is, of the total volume of drugs which is being smuggled across the border. Almost ten times increase in three years. And by the end of 1986 we will come to know what actually the volume is. And 99 per cent of this has come from Pakistan, it is 'austani origin. Today it is not merely the question of Punjab but that of the entire western border. I will agree with Jaswant Singhji when he says that in Rajasthan also this is a serious matter as far as the smuggling of drugs, is concerned. In the case of Gujarat also it is correct. I do not know why time and again when the question of smuggling comes, it is only the issue of Punjab which is being brought. On the one hand the objection is why you are referring only to Punjab; on the other hand the objection is why you are not specifically mentioning the area which will be covered by this particular Resolution. Sir the Government of India has the responsibility to ensure that such activity does not take place in any part of the country—that is why we talk of the western border which has been most affected, say when this nexus is established, when there is direct and hard evidence that three-pronged attack is there, training of terrorists, smuggling of arms, smuggling of drugs, where do national interests lie? That is the moot question today. Sir, Will it be in our national interest if hundreds and thousands of our young people become drug-addicts? Will it be in our national interest if there is an unchecked inflow of arms which is aimed at destabilising the country? Sir, article 249 clearly refers to national interest. The national interest today demands that this has to be checked, and that is why this power which has been provided for

in the Constitution of India is being rightly invoked.

Mr. Gurupadaswamy asked whether the consent of the State Government has been taken or not. This is a very strange argument. I will definitely tell you. That is why I referred to it. I am going to explain. Sir, if you read the commentary of article 249, if you read the debates of the Constituent Assembly, it is crystal clear that a resolution which is adopted by Council of States by two-thirds majority has the implied consent of the States of the Union. The consent is implied. Any resolution which is adopted in this manner has the implied consent. The question of specific consent individual-consent does not arise.

SHRI DIPEN GHOSH: If Mr. Anand Sharma consent, Himachal Pradesh's consent is assumed.

SHRI ANAND SHARMA: Yes, right

SHRI DIPEN GHOSH: That is to be assumed.

Sir, one thing is clear that our friends in the Opposition sometimes conveniently forget the national interests. I am not referring to all today. But Mr. Gurupadaswamy clearly stated. "We have decided this at a conclave. The Chief Ministers of the non-Congress (I) States decided this at a conclave to oppose this, to drop this. This word "conclave" itself is a very bad word. I do not know when it was first used. If my memory serves me right, Sir, it was first used during the British period when in the province of Bengal there was a conclave of treacherous elements who betrayed the Nawab, connived with the Britishers to ensure that the Nawab was assassinated. That was the first time in the history of this country, that this word "conclave" was used. Why are these conclaves taking place to drop something? (Interruptions) You have had three, four. How did this word come into being? In the end I would just like to say two things. One is that the national interest today demands it and the situation also warrants it. The argument that Chief Minister of Punjab has opposed it, again is very unfortunate. It is

not an argument. It is a fact that he has opposed it. We urge upon all who have the national interest, the interest of this country and the interest of the people of this country before them to support this Resolution. Mr. Barnala himself in a statement on the 10th of July had clearly demanded that there should be some firm action on the border. He had stated that he is not satisfied himself with the arrangements at the border. Here is the Statement of Mr. Barnala with me. I do not know why there is a change in his stand now. May be because of some political compulsions. It is very unfortunate.

I have only this appeal to make...

SARDAR JAGJIT SINGH AURORA:  
With Mr. Barnala not being present, putting words in his mouth is totally incorrect.

SHRI-ANAND SHARMA: But others have also referred to "Mr. Barnala. It is strange when I refer to the Chief Minister of Punjab, it is being objected to, but when others referred in support of their argument, it has been tolerated and allowed.

To conclude, I appeal to my friends in the Opposition to support this Resolution which is in the national interest. I will urge them to reconsider their stand when they have themselves admitted that the situation is an extraordinary one, when they have themselves acknowledged that the situation on the border, inflow of weapons, training of terrorists across the border poses a serious threat to the country, i There are certain issues which should be kept out of the ambit of political controversies. The ruling party and the Opposition do have debates and they have difference of ideology. They oppose our programmes. That is immaterial. That is a part of the democratic functioning. That is how debates must take place. But there are certain issues where national interest and security is involved. There no political controversy should be there. There the Opposition must come forward and support the Prime Minister and the Govern-

ment in meeting this challenge Wore the country. This is the need of the hour. This is a critical juncture before the nation. Situation is grave and, for all of us who call ourselves as Indians, have our bounden duty to rise to the occasion and support this Resolution, support the Government, support all those who are opposed to terrorism, those who are opposed to violence, and support those who believe in the unity and strength of India.

#### STATEMENT BY MINISTER

##### **Re. Assassination of General A. S. VAIDYA, former chief of Army Staff**

THE MINISTER OF HOME AFFAIRS (SHRI BUTA SINGH): Sir, the House is aware of the very sad incident regarding the assassination of General A. S. Vaidya, retired Chief of the Army Staff who was shot dead by some persons at Pune on 10th August, 1986. According to information furnished by the Government of Maharashtra, General Vaidya, accompanied by his wife and a plain clothed armed bodyguard was driving his car from the camp area presumably towards his house in Koregaon Park at about 11.45 hrs on that day. As his car reached near Bungalow No. 18, Queens Garden and slowed down to take a right turn, four young persons on two two-wheelers overtook the car from both sides. One motor cycle went ahead and the persons riding it shot at General Vaidya from point blank range. After firing, the miscreants fled away. The bodyguard accompanying General Vaidya jumped out of the car and took the General in a tempo to the Army Command Hospital, Pune, where attempts to save his life prove it futile. Mrs. Vaidya was also injured in the incident and was admitted in the hospital. She is reported to be out of danger and has since been discharged from the hospital.

2. The police has recovered two bullet\* and three empty cartridges from the site of the incident. One bullet has been extracted from the body of General Vaidya. The