

AN HON'BLE MEMBER: But I may add for your information that men also need to be there.

SHRIMATI MARGARET ALVA: But my point is that we have provided that before the magistrate, as I said, hands over custody, an enquiry through a recognised women's social welfare organisation would be conducted to ensure that the custody of the person who is being given after rescue, is into the right hands or into a children's home, as the case may be.

SHRI K. MOHANAN: We men are more concerned about this than women.

THE VICE CHAIRMAN (SHRI M. P. KAUSHIK): The question is:

"That the Bill further to amend the Suppression of Immoral Traffic in Women and Girls Act, 1956, be taken into consideration."

*The motion was adopted.*

THE VICE CHAIRMAN (SHRI M. P. KAUSHIK): We shall now take up clause-by-clause consideration of the Bill.

*Clause 2 to 24 were added to the Bill.*

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

SHRIMATI MARGARET ALVA: Sir, I move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

# THE NATIONAL SECURITY GUARD BILL, 1986

THE MINISTER OF STATE IN THE DEPARTMENT OF STATES (SHRI GHULAM NABI AZAD): Sir, I beg to move.

SHRI M. KADHARSHA (Tamil Nadu): On a point of order. My point of order is about the very moving of the motion by the Minister. Sir, the bulky Bill was circulated only this morning. If you go through the rules of procedure rule 123 clearly says that there should be a gap of two days after circulation of the Bill, before it could be taken up for consideration. But I do not know why the Government is rushing through this Bill. It has become the practice of the Government to sleep all the time and at the fag-end of the session, rush through such very important Bills. We want to have enough time to go through the Bill. It is not proper on the part of the Government to rush through this Bill. If they had shown the same speed in tackling the terrorists, by this time the terrorist activities would have been wiped out of the country.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): It is the discretion of the Chairman. Therefore, I allow the Bill to be moved.

SHRI K. MOHANAN: About the other Bill also, we raised this question.

SHRI GURUDAS DAS GUPTA (West Bengal): Even the Chairman should do his homework.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): It is an important Bill. It should be given top priority.

SHRI GHULAM NABI AZAD: Sir, I beg to move:

"That the Bill to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

*The question was proposed.*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): There is one amendment by Shri K. Mohanan.

SHRI K. MOHANAN: Sir, they have not circulated even my amendment. It is not with me.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): This amendment has also been circulated. Everybody got it.

SHRI K. MOHANAN: Just now I have got it

SHRI GURUDAS DAS GUPTA: On a point of order. The point of order is that the amendment has to be circulated in order to give the Members an opportunity to know what it is actually. Otherwise how are we going to discuss it? At least I have not been given a copy of it.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): This was circulated. Everybody got it.

SHRI K. MOHANAN. Sir, I move:

"That the Bill to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances and for matters connected therewith, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Miss Jayalalitha Jayaram
2. Dr. (Shrimati) Sarojini Mahishi.
3. Shrimati Renuka Chowdhury.
4. Shri V. Gopalsamy.
5. Shri Chitta Basu.
6. Shri N. E. Balaram.
7. Shri Atal Bihari Vajpayee.
8. Shri Nirmal Chatterjee.

9. Shri Mostafa Bin Quasem.

10. Shri K. Mohanan.

with instructions to report by the first day of the next session."

*The question was proposed.*

SHRI M. A. BABY (Kerala): Mr. Vice-Chairman...

SHRI GHULAM NABI AZAD: Mr. Vice-Chairman, I wanted to say something about the Bill.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): All right. Mr. Baby, the Minister wants to say something, will you kindly wait a minute?

SHRI M. A. BABY: Yes.

SHRI GHULAM NABI AZAD: Sir, during the last few years terrorism has been steadily assuming menacing proportions in some parts of the country. The terrorists indulge in wanton killing, arson, looting and other heinous crimes such as hijacking with a view to terrorising the peaceful citizens and creating fear and panic in the minds of certain sections of the public to disturb the even tempo of life and harmony among different sections of the people. With a view to effectively combating such terrorist activities the Government has created an armed force called the National Security Guard. The nature of duties assigned to the force requires that the force should have a statutory sanction appropriate to its special need and it is imperative that the highest standards of discipline are maintained among its members. This object is proposed to be achieved through a stringent code governing the members of the National Security Guard. The Bill seeks to provide for the constitution, control, direction and superintendence of the force. The Bill sufficiently lists the offences which, if committed by the members of this force, shall be punishable by duly constituted Security Guard Courts, the punishments which may be awarded for these offences, constitution of Security Guard Courts and their procedures as

[Shri Ghulam Nabi Azad]

well as the provisions relating to confirmation, revision and execution of sentences passed by such courts, etc. I hope that the Bill will be welcome by all sections of the House.

With these words I commend the Bill to the House for its consideration and acceptance.

SHRI M. A. BABY: Mr. Vice-Chairman, once I started my speech the honourable Minister interrupted me to make his statement. If this is how very important national issues and this is how the Central Government is intending to combat terrorism and if they go ahead in the same fashion, everybody knows what the result would be of the lofty proclamations of the Central Government.

At the outset I would like to make it absolutely clear that my political party is second to none in realising the importance of fighting terrorism and curbing terrorism in our country which is aided and abetted by imperialist forces and which is flourishing in our country today. But our criticism is that the Central Government is continuously failing in using even the existing laws and regulations within its power, in effectively combating terrorism. That is why we wonder why the Central Government is coming forward with a proposal for forming the new so-called National Security Guard. Already the Central Government is having five or six parliamentary forces, namely, the Border Security Force, the Central Industrial Security Force, the Assam Rifles, the Central Reserve Police, the Indo-Tibetan Border Police and so on and so forth, which is known to all of us. An explanation, a specious argument, which is placed before us is that those forces are not specially trained to combat terrorism. If it is so, what prevents the Central Government from absorbing competent personnel from the Centrally-controlled paramilitary forces and making them into a

separate wing and giving them sufficient training so that they could be made efficient to fight and combat terrorism? We do not understand that. They could have done that. Also, we have certain apprehensions now because so far as the Central Government is concerned, my apprehension is that they are waiting for an appropriate political situation when they can acquire more and more powers in their hands. Indeed, Sir, the whole nation is concerned about the terrorist activities and all the political parties are concerned about the escalation of the activities of the various terrorist elements in different parts of the country. All of us are concerned about the various terrorist and separatist forces which are coming up now in the country. In this situation, when the whole nation is united on the question of fighting terrorism, the Central Government, under the guise of fighting terrorism, can acquire more and more powers. This is very unfortunate. In this connection, I would like to tell that there are certain aspects on which we have very serious criticisms to make, particularly about the way in which the Central Government behaves and the behaviour of the Central Government and the ruling party provides a very fertile soil for the various separatist and terrorist forces to thrive on. I shall come to that later. A very fertile soil is being provided by the Central Government to those forces to thrive on. So, our criticism is that there is no need, no necessity, as a matter of fact, for bringing forward such a Bill for the constitution of a separate National Security Guard when the Central Government could have called out efficient young personnel from the various other paramilitary forces and given them training. This is our criticism.

The second point is that, through an executive order in 1984, the National Security Guard was already constituted. This itself is wrong and is an undemocratic practice. This is

another method of undemocratic ruling or this can be called ruling by Ordinances or by issuing executive orders to constitute something and afterwards coming forward with a Bill. This also we object to, especially when the Central Government is taking recourse to issuing Ordinances for its daily work. Not only that. For such a matter like constituting the National Security Guard, an executive order has been issued two years ago and now this new Bill has been brought forward. I reiterate my request that this Bill be sent to a Select Committee, as has been suggested through an amendment just now.

Now, Sir, it has been very clearly stated in this Bill that this National Security Guard is being constituted for combating terrorist activities with a view to protecting the States against internal disturbances. I have a serious objection to the term being used here, that is, "internal disturbances". Because of this term being used here, the Central Government, through the National Security Guard and through various other paramilitary forces under its command, can intervene in States in matters which are strictly State subjects like law and order. Now, it has been assured that only to combat terrorism this would be used. Unfortunately, with pain in my heart, I have to express my apprehensions because earlier also so many such guarantees had been given by the Central Government when the Maintenance of Internal Security Act was passed. When that was mooted, various honourable Members expressed their apprehensions and assurances were given by the Central Government that it would not be used against political activists trade union movements and other democratic movements. But, Sir, precisely for that purpose only, the MISA was used the DIR was used and the NSA was used.

[Mr. Deputy Chairman in the Chair]

I do not want to elaborate more. Assurances will be given on the one

hand, but on the other your record is very undemocratic, unfortunately, we cannot leave it or take it for granted.

Secondly the separate National Security Guard personnel have been prevented from having their association or organisation for political consciousness. If they are forced to remain ignorant about the political events in our country, I fear that this will cause trouble, and I do forcefully demand that they should be given freedom for political and social activities, so that they will be knowledgeable about the happenings in our society. To combat terrorism, they should know the aims and methods of terrorist activities.

Thirdly, in provision 12, part (b), the National Security Guard personnel are allowed to have recreational association and of purely social, recreational or of religious nature. Here I have certain apprehensions regarding this particular part; association of religious nature. What does this mean? Already we have sufficient trouble in Punjab where in the name of religion they have formed their own terrorist groups, and it is in the name of religion that terrorist activities are being conducted in the land of Punjab in our country. And you are giving the right to have religious associations. So far as religion is concerned, according to our Constitution, according to natural justice, in every civilised society, citizens should be allowed to have the right and liberty to have any religious views. That should be their personal problem, personal issue. It should not be brought into their social activities like forming associations on the basis of religion. If you incite them to have associations on the basis of religion. in the National Security Guard there will be Christian associations, there will be Sikh associations and there will be Muslim associations and there are sub-divisions in the Hindu religion as we have in the Kerala Ministry. Like that in the National Security Guard you will have associations

[Shri M. A. Baby]

on the basis of religion. Then there can be tension between them; there can be fights among themselves, and then you will have to come forward with another Bill constitute another Security Guard to look after tension within the National Security Guard. This is ridiculous. So I have serious objections about that part also.

Now, so far as the question of power of deployment of the National Security Guard is concerned, as in the case of other para-military forces with the Central Government, we have an apprehension that this will also be used without a request from the State Cabinet. My concrete proposal is that until and unless the Centre receives a request from the State Cabinet, the National Security Guard should not be deployed. If the State is under President's rule, such request should come from the Governor. This aspect I want to make very clear.

Now, in clause 127, in Chapter X, sub-section (2) it has been mentioned "with the concurrence of the State Government". Here the concurrence is a euphemism to under-play the dominance of the Centre. We know that in regard to the Concurrent List, if there is a dispute between the Centre and the State Governments, what Central Government says will go. So 'concurrence' is a euphemism to conceal the overriding powers given to the Central Government to send its para-military forces to the States. I have a very serious objection about that. Apart from this, there are so many other points which should be discussed in the Select Committee. It should be discussed threadbare.

Now, I have some other points in relation to the very objective of the National Security Guard. It is stated that this is to fight terrorism. How can we fight terrorism? Unfortunately, the Congress leadership and the Cen-

tral Government do not have a clear-cut perspective or understanding of how to fight terrorism and how it originates. According to us, we have to identify the material conditions of the origin of terrorism and terrorist forces. Terrorism originates from inequality. Terrorism originates from a social system that exists and sustains in some different parts of the globe. We have seen how imperialism is engaged in terrorist activities. I do not want to elaborate on that. The naked aggression committed and perpetrated by American imperialists on Libya is well known. It is an act of State terrorism. It was correctly condemned even by the non-aligned movement. Our House also condemned that. We know how terrorism is perpetrated in South Africa. That is State terrorism safeguarded by imperialist forces. We find various terrorist groups and gangs in all capitalist countries engaged in terrorist activities. In the present day world, imperialism under the leadership of America is taking recourse to terrorist activities so that the onward march of humanity and society for freeing itself from exploitation, freedom and for national liberation can be mechanically, physically and forcefully prevented through State terrorism. (*Time Bell Rings*) That is what is happening in Nicaragua also. The same thing is happening in Sri Lanka. This is happening in Pakistan also. They are helping the terrorists in Punjab. I do not want to go into details.

The American imperialists are engaged in terrorist activities in another manner also. They killed our Prime Minister, Mrs. Indira Gandhi. We criticised the socio-economic policies of Mrs. Indira Gandhi. But we do believe that the hand of CIA and American imperialist is there behind the murder of Mrs. Indira Gandhi. Of course, Sikh terrorism is there. But they are moving in the hands of American imperialism. You are only finding the tools. You are not finding the

hand which uses the tools. That is our criticism. The same American imperialism is behind the murder of Olof Palme who was murdered in Sweden. Likewise, imperialism engages itself in terrorist activities against national leaders in our country. The American imperialism is playing a very dirty role along with other imperialist forces. You are failing to identify them. They are aiding and abetting all the terrorist forces. Terrorism is not just a law and order problem. Our Prime Minister talked about dealing fifth terrorism politically. Coming into our national sphere and terrorism within our own country, the policies pursued by the Congress (I) Government since Independence provide a fertile soil for terrorism to grow up. This is our contention. The regional imbalance that has existed in our society provides opportunities to various secessionist movements, separatist movements and regional movements to come up. The general backwardness, poverty, unemployment, parochialism, etc. are being used by terrorist elements. Who are being recruited as terrorists? Unemployed youths? A few minutes back, we were discussing another Bill about prostitution and other social evils. Since they do not have any means of livelihood, they are taking recourse to prostitution as a kind of self-employment programme.

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI M. A. BABY: Since it is a very important subject and since the Deputy Chairman is magnanimous in this matter, I hope a few more minutes will be given to me.

MR. DEPUTY CHAIRMAN: You have already taken more time.

SHRI M. A. BABY: I am concluding, Sir. Like the destitute women forced to take recourse to prostitution as a self-employment programme un-proclaimed by our Gov-

ernment, unemployed youth are being recruited by the terrorist organisations. And this is what happened in Germany and Italy when fascist forces had come up. We know the history. This House knows that. So, Sir, so long as the social problems, the economic problems are not solved and so long as you follow the capitalist path of development which breeds regional imbalances, which breeds poverty, ignorance and illiteracy and so on and which keeps people in backward consciousness, which keeps people in communal feeling and parochial feeling, you cannot solve this. Communalism may develop into a form of fanaticism. And once communalism develops into a form of fanaticism, later on that may develop or deteriorate into a form of terrorism also. This you are not recognising, this you are not identifying. Apart from this, in these circumstances, when the terrorist forces come up as a result of your own policies, the policies of the Central Congress (I) Government, you are caught up in a kind of mythological predicament where Bhasmasura went against the creator of Bhasmasura himself. Now, you are forced to take some steps against terrorists. Whenever you take concrete steps against the terrorists, we are all there to openly support you. But still there is some inherent weakness in your policies because for your political advantages at times, you are also soft-pedaling with various communal and fanatic forces who later on develop as terrorists. For example, we are discussing about the national security guards. In my home State Kerala, four black listed foreigners—they are not black-listed by some of us or the opposition parties but by the Home Ministry—not only entered Kerala but they were also received by the State Government, they were received as State guests, rather as State paying guests. (Time bell rings). I do not know to whom they paid what. (Time bell rings) Anyway they have been given a red carpet welcome in our State and they have been taken to various parts of the State. (Time bell

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rings). This is the way in which you guard our national security. If you go on...

MR. DEPUTY CHAIRMAN: I am now calling the next speaker.

SHRI M. A. BABY: In just half a minute I am concluding, Sir. So, this is your weakness. On the one hand you are genuinely disturbed with the growth of terrorism—we understand that; you are taking some measures against terrorists—but on the other, whenever you want you go hand in glove with some such forces. For example, in Tripura you are still having an alliance with the Tripura Upajati Yuva Samithi who are shielding another terrorist organisation, the TNV. For your political advantage, in Tripura you are going with a mass organisation of a terrorist organisation...

SHRI DEBA PRASAD RAY (West Bengal): Sir, on a point of order. He is misleading the House by telling wrong things. In Tripura, the terrorist forces, the TNV are being patronised by the CPM. (Interruptions) A Minister has got converted all the terrorists and got them included in the Sangram Parishad in Tripura. He is misleading the House.

MR. DEPUTY CHAIRMAN: It is an opinion, not a point of order.

SHRI M. A. BABY: This is the first time I hear him. I know that Mr. D. P. Ray is capable of cracking such jokes in this Elders House I just consider that as a joke. Sir, this is where the efforts of the Central Congress(I) leadership and the Cabinet failed. So my request is that rather than coming forward with such eye-wash measures you should have the political will to fight terrorism, you should have the determination to fight terrorism and there we will support you and so long as you fail to do your duties, so long as you fail to deliver the goods, we are forced to oppose this. And do not take this opportunity to acquire more and more powers in

your hands. That itself will damage the very fabric of federal system which will also help encourage separatist forces to come up. That is what I would like to mention in this relation, Sir. Thank you.

SHRI P. N. SUKUL (Uttar Pradesh): Mr. Deputy Chairman, Sir, I rise to support this very welcome piece of legislation which proposes to raise a specialised force to combat terrorism in our country. Sir, there is no doubt about it that for the last four or five years we have had too much of terrorism. Hundreds of people have been killed in Punjab in the name of religion and thousands have been injured in arson, looting and sabotage. These terrorists are indulging in all sorts of anti-national activities and it is high time we had a special force to contain those terrorist elements in our country. And that is why I say I welcome this measure which is going to create a special force, a regular force to combat terrorism in our country. Our own former Prime Minister, Mrs. Indira Gandhi has lost her life because of these terrorists. And we know that these terrorists are being helped not only by people in our own country but by people in other countries as well and by our neighbouring countries especially who are providing them with training, arms, ammunition and finances and almost all the wherewithal that is required by them.

Sir, although we have a number of para-military forces already in our country like the C.R.P.F., the Border Security Force or like the Indo-Tibetan Border Police or like the Assam Rifles, but all these forces were created for certain specific purposes. For example, the BSF is to be deployed on the border, the job of this force is border security and not specially for containing terrorism. Similar is the case with the Assam Rifles. Similarly the Indo-Tibetan Border Police is not for containing terrorism. But for containing terrorism as it is on the border and inside the country wherever

there is terrorism we very badly need a specialised force and that is why I say it is a very welcome measure that the Government now proposes to raise, a special force to combat terrorism in our country. These terrorists are already involved in secessionist demands, secessionist activities and they are raising the demands for Khalistan and it is no patriotic citizen of this country who would ever try to or who would ever like to have any part of our country gone from the rest, eliminated from the rest. And the question is how to control these secessionist activities which are being abetted, as my friend was saying by other forces, by other countries. This can be done only by a regular force meant for the purpose and that is how we can perhaps contain this menace of terrorism. Our Prime Minister, Shri Rajiv Gandhi has already said more than once, even day before yesterday, while addressing the Youth Congress Convention, that this terrorism cannot be dealt with, cannot be dispensed with so easily within a short time. Very patiently we have to deal with them and also very efficiently. And if we have to deal with them efficiently, then naturally very efficient people must be there to do the job. They must be trained well and equipped well and only then we can expect proper returns from them. That is why, as I said. It is indeed very good that a separate force is going to be raised for the purpose and as my predecessor was saying in the beginning that so many forces have been raised for specific purposes but they were misused or abused for certain other purposes; well, as far as I know, this force is meant only to contain terrorism and to combat terrorism. Therefore, it is not a force which can be deployed like the CRPF or the BSF or any other force anywhere in the country. It has to be deployed only where there is terrorism, where terrorists are there and where we have the real problem created by them.

Of course, we already have the National Security Guards in our coun-

try for the last two years, and as has been mentioned in the penultimate section of this legislation, all those National Security Guards which are there, will be deemed to have been created under this enactment. They are there but they are not a regular force. Now, hereafter once we pass this Bill, we will be having a regular force to deal with this problem.

As I said, if we really want to have efficient service from these Guards, there must not be any room for any kind of dissatisfaction amongst them. They should not suffer for any dissatisfaction because of their pay or wages or service conditions or living conditions. On all these fronts, we have to ensure that these Guards and also the officers do not have any sense of dissatisfaction. Their service rules should be framed as early as possible. I know even in a force like the RAW, there has been, and there is, dissatisfaction; even in your BSF there is some amount of dissatisfaction, not only among the lower ranks but even among the very senior people, the IPS officers and non IPS officers there is dissatisfaction. Quite a few of the BSF people have met me during the last one or two days and they have told me that even in matters of pay scales, in the matter of new pay scales that are proposed to be granted, there is a strong resentment amongst the IPS and non-IPS people who are equivalent to them for all practical purposes. So, this kind of discrimination should not be there so that there is no heart-burning and there is no sense of dissatisfaction amongst the personnel of these National Security Guards.

As regards the different provisions. In section 7 it is mentioned that no member of the Security Guards shall be at liberty to resign his appointment during the term of his engagement. I do not know what is actually meant by the words 'term of engagement', whether service conditions, conditions of recruitment etc. 'Term of engagement' is a very wrong phrase that has been used. It means that their term is something like tempo-



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rary but if it is going to be a regular force, then proper service conditions will have to be there. You could have said 'term of appointment' 'or term of recruitment' instead of 'term of his engagement'. It should not be there. Now, you are not going to allow anybody to resign. Under the Act, you do not want anybody to desert also. But you can dismiss him all right. Under section 7, he cannot resign. But under section 9, he can be dismissed. Now, due to certain reasons, due to certain considerations, there is a soldier of the force who does not want to continue as such, who wants to leave the force, may be because of some domestic problems or because of some other considerations, and if you do not allow him to resign, what will happen? He will be there, but he would not work. He would not put his heart and soul into his job. At times, he may also be frustrated and he may think of deserting the force. Therefore, you will be in a way compelling him to desert the force, not to resign honourably, not to quit his job honourably. You will be creating a situation where he will be forced to resort to certain crimes as mentioned in the Bill. Therefore, I would suggest that this unhappy situation should be avoided and any person who wants to resign, for some genuine reasons, should be allowed to resign and you should accept the resignation. What is wrong? Instead of taking a series of actions against him, instead of making him commit so many crimes under the Act, it is better to let him go.

Now, Sir, in section 12, so many restrictions are being imposed. It is all right. In the case of such forces, restrictions have to be imposed. They cannot be irresponsible to their job. They cannot be irresponsible to their country. Therefore, these restrictions have to be there, restrictions in regard to political association and so on. But here, it is mentioned that they will not be allowed even to have an association. Of course, in the case of such forces, the question of granting

them trade union rights does not arise. But what about the right to associate? It is, in fact, a fundamental right. This is available to every citizen in this country, whether he is in such a force or in the army or anywhere else. For their own good, not for any political purposes or for any ulterior motives, they should have this right. This right of association you have already granted to policemen. They can have associations. But they do not have the right to strike. They do not have trade union rights. In the same way, here, you need not give them trade union rights. But they should have a forum where they can sit together, discuss their common problems. They should be allowed to have a forum through which they can ventilate their grievances so that you will be able to know their problems and their grievances and you can set them right. By this, you will be able to create an atmosphere in which they will not be having any sense of dissatisfaction. Therefore, I would request the hon. Minister that the right to have an association should be given. Of course, this right should be shorn of all trade union rights. They should not be allowed the right of collective bargaining where they can resort to direct action. But for submitting memoranda, for submitting petitions or for drawing your attention to their common problems, they should have a forum. If you are not going to allow them to have a forum, they will be indulging in so many other activities which the RAW men indulge in or some other men indulge in. If they have no way out, what can they do? Therefore, it is better to avoid certain things which may not be liked by the administration and which may not be desirable in the larger interests of the country. I would very humbly plead that the right of association should be granted to them. Otherwise, bad blood may be created.

In the same section, it has been mentioned that if any question arises as to whether any society, institution,

association or organisation is of a purely social, recreational or religious nature under clause (b) of this subsection, the decision of the Central Government thereon shall be final. Now you allow him certain things and then you say that you alone will judge it whether is proper or not. This is, think, too much. The interpretation of law must be left to a court of law. You can make law, you can frame law, but if you are going to take over the responsibility of interpreting law then I think you are making an encroachment, making an inroad into the jurisdiction of the judiciary. It should always be left to a court of law to interpret whether these actions are right or wrong under the law.

Then, you also say that they cannot hold any demonstration under this article. Very recently, your judicial officers were demonstrating, parading the street of New Delhi. Engineers have demonstrated. Your Judges have demonstrated. Why can't they demonstrate peacefully? They should be allowed the right to demonstrate peacefully for their own collective demands, for their own good. I don't think such an eventuality will arise, such a situation will arise when they will be forced to do it. If you are going to keep them well, keep their minimum needs satisfied, such a situation may not arise, but then this right to peaceful demonstration should be allowed. It is also a fundamental right. In so many cases the Supreme Court has said so. So, in the case of these people if you are going to deny them this right, it is not proper.

In clause 13(3) it is said:

"Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or when necessary, refer the complaint to a superior authority."

This is by way of a remedy to aggrieved persons. Now if a guard has been maltreated by an officer and if he makes a complaint against that officer, generally

what happens, officers are in league with each other, they have very great consideration for each other. Even if there is a complaint against an IAS officer, this is my experience, another IAS officer will try to support and protect him. So, officers become one and then the poor man of a lower rank has to suffer at the hands of the officers. A way must be found out to ensure proper justice in the case of those who are going to deal with terrorists and who are going to act keeping their lives always in their hands.

Coming to offences mentioned in Chapter III, I have nothing to add to articles 15, 16, etc. because these personnel, these guards must be dutiful, must be obedient, must not indulge in insubordination, must do their job well, and, therefore, there cannot be any objection to action being taken as contemplated in this piece of legislation for the commission of certain offences mentioned in these clauses.

But, Sir, there is discrimination being allowed between officers and the guards. In clause 21(1) it is mentioned that in the case of disobedience to superior officers, a guard can suffer imprisonment for a term extending to 14 years. Up to 14 years he can be sentenced to imprisonment but in clause 24 an officer can be imprisoned only for a maximum period of 7 years. For the same offence, you are providing 7 years imprisonment to an officer and 14 years imprisonment to a guard. You are not fair in such matters. For the same offence, there should not be any discrimination between officers and lower ranks.

SHRI MOSTAFA BIN QUASEM  
(West Bengal): So many anomalies!

SHRI P. N. SUKUL: This provision is discriminatory. This is what I am saying and it should not be allowed to be there because when it comes before Parliament, Parliament must scan it as minutely as possible and try to advise the Government to improve upon it, where necessary. Otherwise it is a very good piece of legislation; but for these slight anomalies, it is a welcome measure no doubt.

[Shri P. N. Sukal]

In Chapter VII, you have made provision for Special Courts to try these special men. But under this Chapter—I have gone through it hurriedly—I have not found anywhere a provision for a man who is being prosecuted to take the help of a pleader or an advocate. Nowhere it is allowed. That is a basic fundamental right. Every man who is prosecuted under the law of the land must be allowed access to legal advice. He cannot interpret law; he is not an expert in matters of law. You must allow him the services of a legal expert, of a pleader or an advocate, as the case may be.

Again, Sir, I will come to Section 115, Chapter IX, where it is said that for certain offences even death penalty can be inflicted upon the man. You can sentence him to death, but here, there is no provision for a mercy petition. Even in cases where people commit multiple murders, they can have access to the President through a mercy petition.

SHRI JAGESH DESAI (Maharashtra): It is court martial.

SHRI P. N. SUKUL: There is no court martial here; it is a Special Court. So I request the hon. Minister that a provision for submission of mercy petition to the President should also be there.

And, as I said, service rules for these people must be framed as early as possible, and if possible, these should also be brought before Parliament for consideration.

With these words, I support the Bill.

SHRI NIRMAL CHATTERJEE: With these words, you are supporting the Bill! All languages, including English, carry some meaning. That is what I am trying to understand.

SHRI K. G. MAHESWARAPPA (Karnataka): Mr. Deputy Chairman, Sir, the Bill is intended to constitute an armed force of the Union to combat terrorism. If I may say, so, I come from a State where there is no terrorist activity.

SHRI GHULAM NABI AZAD: Thank God.

SHRI DARBARA SINGH (Punjab): You are very fortunate.

SHRI K. G. MAHESWARAPPA: It is ruled by Janata Party Government.

SHRI DARBARA SINGH: Where?

SHRI K. G. MAHESWARAPPA: In Karnataka, for your information. However I have got some reservations about the bill. But I am, at the same time, inclined to support the Bill. As my learned friend, Mr. Baby pointed out, the provisions are likely to be abused. It is not merely intended to combat terrorism, but it will invade the States' powers on the law and order situation. Section 4(1), as has already been pointed out, reads:

"There shall be an armed force of the Union called the National Security Guard for combating terrorist activities..."

If it had stopped at that, it would have been something. Further it reads:

"...with a view to protect States against internal disturbances."

Under the guise of protecting internal disturbances, the provisions of this Act may be abused.

I may point out that there is no provision in the Act, saying under what circumstances this force, the Security Guards, will be deployed in the States, whether it will be on the asking by the Government of the State or it will be with their concurrence that this deployment of this Guard will be made in any State.

Why I am inclined to support this Bill is only because there is already the Security Guard in existence. That force was constituted in the year 1984 by an executive order. This Bill is only to give legislative sanction and to provide more teeth to that organisation, that specialised army, that specialised para-militia to deal with the terrorist activities in the particular bor-

der areas. If it had been confined particularly to those areas where terrorist activities are rampant, then, there would have been some meaning. But this can be deployed in any State, anywhere in this country, whether the State has asked for it or not asked for it. That is one thing.

Secondly, regarding recruitment there is no provision in the Bill. Clause 4(2) of the Bill reads:

"Subject to the provisions of this Act, the Security Guard shall be constituted in such manner as may be prescribed..."

I think the hon. Minister may say that provision about recruitment and qualification required for this para militia will be made under the rules that may be framed. We should not give rule-making power on such vital matter to the Government. Some indication should have been made in the Act itself about the minimum qualification, training, recruitment etc. On the other hand, there are provisions with regard to the conditions of service which are also subjects to be made under the rules, and there are elaborate provisions made regarding service conditions and disciplinary action to be taken against the Security Guards. But, so far as recruitment is concerned, there is no specific provision anywhere in this Bill on how to recruit, how you are going to recruit this important, very specialised armed force. Therefore, there is a severe lacuna in the Bill itself. There is no provision about the qualification, minimum qualification and the nature of recruitment. Even in regard to the service conditions provisions have been made in the Bill itself, though they can be made in the rules. Sub-section (2) reads:

"...as may be prescribed and the conditions of service of the members of the Security Guard shall be such as may be prescribed."

Though it has been mentioned in sub-clause (2) of clause 4 that the conditions of service are subject matters of rule-making power, still provisions have been made in the Bill itself regarding the service conditions, punishments and so on.

So far as the other provisions are concerned, they have actually been borrowed from other Acts like the Army Act, the CRPF act or the BSF Act, the Central Industrial Security Force Act and the Disturbed area (Special Courts) Act. Verbatim most of the provisions have been adopted from those Acts. In the entire Bill containing 140 clauses, there is nothing to indicate as to the nature of the functions of these security guards. Under clause 6, the provision relating to their service is indicated in one sentence. It reads like this:

"Every member of the Security Guard shall be liable to serve in any part of India as well as outside India."

Except that, the nature of their service has not been indicated anywhere. I also do not understand what is their work outside India.

SHRI JAGESH DESAI: If you go outside, then he will accompany you.

SHRI K. G. MAHESWARAPPA: He will be fortunate to accompany, but sitting in the Opposition I don't think I can go outside. So, the question is how can the Security Guard have service outside India?

There are other lacunae in this Bill. The purpose for which it is intended has not been very clearly laid down. In fact, as I submitted in earlier part of my speech, I am inclined to support this Bill because there is a public opinion that whatever measure the Government takes to combat terrorism is welcome. Therefore, I do not want to say anything against that. I welcome the Prime Minister's statement made on the rampart of the Red Fort that we are going to put down terrorism in this country. All of us in the Opposition are one with the Prime Minister and the Union Government to put down terrorism whether it exists. But by this Statute you are creating one more para-military force. There are already five or six such organisations. The point is where is the coordination between the one and the other? When it is deployed in any State, would there be any coordination with the

[Shri K. G. Maheswarappa]

State Police? There is no provision to indicate how there will be a coordinated functioning with other police force.

If it is a very specialised force, this also must be indicated in the Bill. Even while making rules, international and army experts may be consulted. In fact, the terrorists are being trained in America and in other parts of the world. There are schools training terrorism. Therefore, there must be a sophisticated training given to them through experts so that they can effectively discharge their work. Highly qualified experts in the field should be recruited for the purpose. It is not necessary to recruit unemployed and uneducated personnel not knowing even how to use sophisticated weapons. Government should be very careful while framing rules for recruiting such a specialised Security Guard Force.

With these qualified reservations I support the Bill.

**SHRI PRABHAKAR RAO KALVALA** (Andhra Pradesh): Sir, I rise to support this Bill, but there are certain things which I would like to get clarified.

The purpose of this Bill is to formalise the National Security Guard which has been in existence since 1984. It was established by an executive Order and a recurring expenditure is being incurred on it. Now, it is claimed that a comprehensive Bill is being brought forward to replace the Executive Order. But, how comprehensive is this Bill? Clause 4 of this Bill says that there shall be an armed force unit called the National Security Guard for combatting terrorist activities with a view to protecting State against internal disturbance. According to Clause 140, the National Security Guard in existence shall be deemed to be a security guard constituted under this Act. It is also to be deemed to have been appointed under this Act.

But what about recruitment to the force from time to time? There is no provision in the Bill to deal with enrolment to the force.

It seems to me that this Bill is a patchwork, a kind of quilt, made out of provisions borrowed from the Army Act and the laws relating to the CRPF, the BSF and other para-military organisations. While doing so, the authors of this Bill seem to have overlooked the need for a clause to deal with enrolment. For instance in the Army Act, clauses 13 and 14 clearly mention how the personnel are to be recruited and what is going to be the test for admission, etc. Similarly, clause 6 of the Border Security Force Act details the mode of enrolment to the para-military organisation. But clause 4 of this Bill does not serve the purpose. Unless there is a specific provision for the purpose, it will be for the Government to make rules for recruitment and related purposes. Secondly, when a comprehensive measure is being enacted, why should there be a lacuna in respect of an operational matter?

Similarly, as has been pointed out already by our colleagues in the other House the title to section 15 of the Bill is wrongly worded. There is no need for the words "and punishment with death" in the title. It seems to be an example of mechanical copying from other laws without caring for the thought. The wording of section 15 is too wide to allow misuse. Expressions like "shamefully abandons his place of duty" can be subject to misuse and miscarriage of justice. The provision should be specific so that dereliction of duty by the members of this force can be dealt with firmly without leading to harassment of the personnel. There is no dearth of establishments to safeguard internal security and put down terrorist and other activities. We have already five such forces, namely, CRPF, BSF, CISF, the Assam Rifles and the Indo-Tibetan Border police. Now we are adding another to the list. Would it not have been better to develop one of the existing establishments into a specialised anti-terrorist force with adequate training and proper equipment? Is it necessary to create another organisation for the purpose with a big establishment and infrastructure? Coordination among the different organisation will be a difficult task. If such coordination is not available then the

purpose of fighting the terrorists will be defeated.

We are definitely against terrorists and terrorism. We want it to be rooted out. There is no doubt about it. We support the object of this Bill. But my point is whether this force that is being created and whether this law that is being enacted for the purpose will serve any purpose. Whether they are necessary at all with such a top-heavy establishment consisting of a Director-General, an Additional Director-General, an Inspector-General, a Deputy Inspector General, a group Commander, a Squadron Commander and so on. Do we need such a big hierarchy to fight terrorism? The terrorists in Punjab are said to number not more than a few hundred or at the most a few thousands. There is thus no danger of their overwhelming the security forces by the strength of their numbers. Similarly, in spite of the large-scale smuggling of arms from outside the country, their equipment is not superior. So what is needed to counter them is an efficient system of intelligence which will keep the authorities informed about their activities and composition to catch them before they strike. We

have several intelligence organi-

6.00 p.m. sation costing millions of rupees. But they have not been able to prevent the terrorists from doing whatever they threaten to do. The assassination of the former Chief of Army Staff, General Vaidya is the latest example of failure of our intelligence. So unless you remove this lapse creation of new force by itself will not solve the problem of terrorism.

Finally, it should be made clear by the Government that this force will not be deployed in a State without the express consent of the concerned State Government. Actually the concerned State should ask for the service of the force. Such a precaution is very necessary to avoid complications in the implementation of the law. The Home Minister should give categorical assurance that the force will not be used by the Centre unilaterally.

SHRI KAILASH PATI MISHRA (Bihar) . . . (Interruptions)

SHRI NIRMAL CHATTERJEE (West Bengal): There is no urgency at all. We do not want to sit after six of the clock. (Interruptions).

MR. DEPUTY CHAIRMAN: The decision was . . . (Interruptions)

SHRI NIRMAL CHATTERJEE: All kinds of decisions are inflicted on us.

MR. DEPUTY CHAIRMAN: In the morning when the leaders of the parties met in the Chamber of the Chairman, we discussed and I was also present there. (Interruption).

SHRI DIPEN GHOSH (West Bengal) Did you discuss it? Nothing was discussed. I was there. (Interruptions).

MR. DEPUTY CHAIRMAN: So, I think, we will continue the discussion. (Interruptions).

SHRI K. MOHANAN (Kerala): The Government is conducting this House at its whims and fancies. They bring a Bill in the morning and they want to pass it in the evening. We cannot cooperate with them.

SHRI NIRMAL CHATTERJEE: There is also a show in the Central Hall.

SHRI K. MOHANAN: No, that is not the point. The Sales Promotion Bill was discussed and discussion was concluded. Even then the Minister was not prepared to reply and pass that Bill because it is beneficial to the poor employees. (Interruptions) We are not prepared to cooperate with the Government.

MR. DEPUTY CHAIRMAN: In the Business Advisory Committee we took the decision that ordinarily, the House will sit up to O'clock and if necessary, beyond 6 P.M. and today, there are only two-three speakers more and there is nothing to be panicky about the whole thing (Interruptions)

SHRI DIPEN GHOSH: Sir, the question is: when the Minister of State for Parliamentary Affairs refers to today's meeting, in that meeting, I was also present

[Shri Dipen Ghosh]

It was not discussed that the National Security Guard Bill, 1986 has to be completed today. The subject which was discussed was whether the Dowry Prohibition (Amendment) Bill, 1986 could be taken up today or not. Mr. Parliamentary Affairs Minister, are you aware of that thing?

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SITARAM KESRI): Yes.

SHRI DIPEN GHOSH: Then, you must not mislead the House.

SHRI SITARAM KESRI: I am not misleading.

SHRI DIPEN GHOSH: The whole question which we discussed today in the morning was whether the Dowry Prohibition Bill would be taken up today or not. This question was not there whether we would sit late, discuss and dispose of the National Security Guard Bill. We have a day tomorrow and there is little business to be transacted. Then what is the difficulty in keeping it over for tomorrow?

MR. DEPUTY CHAIRMAN: I am sorry. Mr. Kailash Pati Mishra.

SHRI DIPEN GHOSH: In that case, we have to walk out in protest.

SHRI K. MOHANAN:\*

SHRI DIPEN GHOSH:\*

MR. DEPUTY CHAIRMAN: Nothing of this will go on record.

[At this stage, some hon. Members left the Chamber].

श्री कैलाश पति मिश्र : महोदय, धारा 249 के अधीन जो रिजोल्यूशन इस सदन में आया तो मेरी पार्टी ने इसका डटकर समर्थन किया। राष्ट्रीय सवाल के ऊपर, राष्ट्रीय सुरक्षा के ऊपर हम किसी से पीछे नहीं रह सकते। अभी आदरणीय सुकुल जी का मैं भाषण सुन रहा था। सुकुल जी के भाषण को सुनने के बाद मैं बड़े चक्कर में पड़ गया कि वे इस बिल का

\*Not recorded.

समर्थन कर रहे हैं या विरोध कर रहे हैं। महोदय, पहले से ही देश में इनकी संस्थाएँ काम कर रही हैं जिनके हाथ में राइफल और हथियार रहते हैं, आसाम राइफल, बार्डर सेक्योरिटी फोर्स, सेंट्रल रिजर्व पुलिस फोर्स, स्टेट मिलिटरी पुलिस, थानेदार, कांस्टेबल हैं और इसके बाद यह नेशनल सेक्योरिटी बिल लाया गया है। इस बिल को पढ़ने के बाद लगता है, यह एक मोटा पोथा है, मैं गिन रहा था पूरे 46 पन्ने इस बिल के अन्तर्गत हैं। आश्चर्य लग रहा है देखकर कि इतनी जल्दबाजी में, इतनी हड़बड़ी में इतना बड़ा कदम उठाने की कोशिश क्यों हो रही है। मैंने अभी सुकुल जी के नाम को कोट किया लेकिन सत्ता पक्ष के ही कुछ आदरणीय सदस्यों ने एक नहीं, दस खामियां इसके अन्तर्गत बताई हैं। अलग-अलग बात करने पर, सत्ताधारी पार्टी के कई मित्रों से जो बात हुई उसमें हर एक ने इस प्रकार की शंका प्रकट की है। सरकार ने यह एक प्रकार से दूसरी सेना देश के अन्दर खड़ी करने की योजना बनाई है। मुझे आश्चर्य लग रहा है कि यह इतना बड़ा बिल है लेकिन इसका फाइनेंशियल मेमोरैण्डम कहाँ है इसका कोई पता नहीं है, इसका कोई उल्लेख नहीं दिखाई दे रहा है। महोदय, इसके अन्दर, नेशनल सेक्योरिटी गार्ड के लिए संविधान का उल्लेख आपने कर दिया, सेवा शर्तें, सजा, अपराध, गिरफ्तारी, सेक्योरिटी कोर्ट का कन्फर्मेशन और रिवीजन, सजा का कार्यान्वयन, क्षमा, छूट इत्यादि अन्य सारी बात लेकर भर दी है। मुझे आश्चर्य लग रहा है यह देखकर कि आपने इसके अन्दर जब कोर्ट की व्यवस्था की है, एक माननीय सदस्य ने कहा कि कोर्ट मार्शल नहीं, यह कोर्ट है, तीन श्रेणियाँ आपने बनाई हैं, जनरल सेक्योरिटी गार्ड कोर्ट, पेटा सेक्योरिटी कोर्ट और समरी सेक्योरिटी कोर्ट और उसके अन्दर सजा का आपने जो उल्लेख किया है, कोर्ट द्वारा जो सजा दी जाएगी उसका कन्फर्मेशन गवर्नमेंट के द्वारा होगा। महोदय, अगर सेशन कोर्ट से कोई सजा होती है तो हाई कोर्ट कन्फर्म करता है। सेशन कोर्ट हो या हाई कोर्ट ये दोनों जूडिशियल बॉडी हैं और वह इसे करती हैं लेकिन यहाँ कोर्ट द्वारा जो

सजा होगी उसको गवर्नमेंट कन्फर्म करेगी। गवर्नमेंट इसके लिए किमां आफिसर की नियुक्ति कर देगा और वह कन्फर्म कर देगा और कन्फर्म करने के बाद वह सजा हो जाएगी। हतना हो नहीं सजा के अन्दर मृत्यु दंड भी है, फांसी भी है, आजावन कारावास भी है। संविधान की मौलिक धारा के साथ उसका क्या अभी तक संगत है, मुझे लगता है कि उसकी छानबीन तक नहीं हो पाया है और उतन जल्दबाजी में यह बिल लाया गया है जिसका कोई हिसाब नहीं है। (समय की घंटी) मुझे थोड़ा समय दिया जाए, मैं कुछ बातों का उल्लेख करना चाहता हूं। मुझे आश्चर्य लग रहा है और कभी कभी लगता है कि सरकार जल्दबाजी से ज्यादा पेनीकी बन गई है और यह बिल इस प्रकार का लाना सरकार के पेनीकी होने का ही नतीजा है। यह भूलिए मत देश बहुत बड़ा है और टेरारिस्ट टेरारिस्ट आप कर रहे हैं। यह एक पंजाब आपको सामने दिखाई दे रहा है। एक-एक राज्य को उठा कर देख लीजिए अलग-अलग प्रकार के ज्वालामुखी फूटते हुये दिखाई दे रहे हैं। मैं इसका बार-बार उल्लेख कर चुका हूं। भारत का पूर्वी सीमा सुरक्षित नहीं है। सीमाओं के अन्दर जो राज्य है वहां पर एक नही अनेकों प्रकार की आग लग रही है। मैं आपको चुनौती के साथ कहना चाहता हूं। आप पंजाब और बिहार के पिछले दो वर्ष के आंकड़े उठा कर देख लीजिए (समय की घंटी)। मान्यवर, मैं जानता हूं बिल पास करने की बड़ी जल्दबाजी है, पा करके तथ्यों पर बोलने का समय दीजिए। पंजाब और बिहार के आंकड़े उठा कर देख लीजिए, दो साल का रिकार्ड देख लीजिए, मृत्यु या हत्यायें पंजाब में अधिक हुई हैं या बिहार में अधिक हुई हैं? अब क्या क्या कहाँ कहाँ पर घाव फूटेंगे, कोई विस्फोट होगा हर एक के लिए अलग-अलग प्रकार की सेना बनेगी, अलग प्रकार का संगठन खड़ा होगा फिर यह देश जाने वाला कहाँ है? मैंने कई उच्च कोटि के पुलिस पदाधिकारियों से बातचीत की। आपने जो पहले ढांचा बना रखा है उनकी जिम्मेदारी क्या है,

जनरल पुलिस की जिम्मेदारी क्या है, आर्मी की जिम्मेदारी क्या है, वार्डर सिक्यूरिटी फोर्स की जिम्मेदारी क्या है, रिजर्व पुलिस फोर्स की जिम्मेदारी क्या है? अगर यह सब अपनी-अपनी जिम्मेदारी का पालन करते हुये दिखाई पड़ें तो आज कोई अलग फोर्स बनाने की आवश्यकता नहीं है। यह ठीक है कांग्रेस सत्ता के अन्तर्गत नहीं जनता पार्टी की सरकार जब बनी थी उस समय देश के अन्दर धर्मवीर कमीशन बना था और उसकी 8 थैलों की रिपोर्ट है। मैं दावे के साथ कहता हूं कि उस कमीशन पर एक बार बहस कराइये, चर्चा कराइये, उसकी जो रिकमेंडेशन हैं उनको लागू करने के लिए सरकार कदम बढ़ाये। जब हम लोग प्रश्न पूछते हैं धर्मवीर कमीशन की रिपोर्ट के बारे में तो कभी यह उत्तर दिया जाता है कि दो रिकमेंडेशन मान ली गई हैं, कभी यह उत्तर दिया जाता है कि चार रिकमेंडेशन मान ली गई हैं। कमीशन की रिपोर्ट के ऊपर एक बार भी सदन में चर्चा नहीं की गई है आपको गांव गांव में जो पुलिस बैठे हैं आप उस को किस प्रकार से देख रहे हैं क्या व्यवहार कर रहे हैं। अभी मैं फॉर्थ सेट्रल पे कमिशन की रिपोर्ट पढ़ रहा था आश्चर्य हो रहा है कि सरकार सेना में लगे हुए आई०ए०एस० का एक वर्ग उसको आपने पहला श्रेणी में रखा है एग्जक्यूटिव के जितने डिपार्टमेंट के वर्मचारा हैं उनको दूसरी श्रेणी में रखा लाँ एंड आर्डर सम्भालने वाला पूरा की पूरा पुलिस फोर्स को थर्ड ग्रेड में थर्ड रेट पर रखा है मैं चपरासी की अवमानना नहीं करना चाहता हूं लेकिन जानता हूं कि चपरासी और पुलिसमैन जो रात में राइफल लेकर पहरा देता है और सब प्रकार से लाँ एंड आर्डर का कंट्रोल करता है दोनों के कर्तव्य में कितना अन्तर है हर मिनट, हर क्षण जीवन के साथ संघर्ष करने की आवश्यकता पड़ती है सारी सेवा को डिमोरलाइज करके और उसकी उपयोगिता को समाप्त कर के आप यह समझें कि देश के अन्दर विधि-विधान और कानून की सुरक्षा होगी इस तरह से यह नहीं होने वाली है आपने इस में लिखा हुआ है (अवधान)



श्री उपसभापति : आप कन्क्लूड कीजिये (व्यवधान)

श्री कैलाशपति मिश्र : भारत के बाहर भी भेजा जाएगा । मैं पूछना चाहता हूँ कि दुनिया के दूसरे देशों में क्या षडयंत्र हो रहा है ? देश कैसे बचे इसके लिए कोई एक फोर्स तैयार करने की आवश्यकता है । हमारा गुप्तचर विभाग है, पूरी क्षमता सुरक्षा की देश के अन्तर्गत है, जो तब पहले से खड़ा करके रखा है, जिस उद्देश्य से इसे खड़ा करके रखा है, अगर उसको सक्षम नहीं बनायेंगे, तो मैंने पहले ही कहा पैनिकी बनने के बाद उठाने वाले कदम यह कदम देश के लिए, राष्ट्र की सुरक्षा के लिए सहायक नहीं होंगे ।

महोदय, कभी-कभी मुझे आश्चर्य लगता है—एक है छोटी सी पौराणिक कथा, लेकिन है मजेदार । हमारे यहाँ त्रिशंकु नाम के व्यक्ति है ... (व्यवधान)

श्री उपसभापति : स्टोरी के लिए अभी टाईम नहीं है । आप कन्क्लूड कीजिए ।

श्री कैलाश पति मिश्र : एक मिनट में समाप्त करता हूँ । मुख्य देवताओं की श्रेणी से हट कर वह विश्वामित्र का सेवा करने लगे । विश्वामित्र ने उनको स्वर्ग का टिकट कटा दिया । ऊपर गया, स्वर्ग में पहुँचे तो इन्द्र देव ने वहाँ से धक्का दिया । तो लुढ़कते हुए नीचे चला, नीचे से विश्वामित्र ने कहा कि नहीं बस वहीं तक आ सकते हो अब पैर ऊपर और सिर नीचे और आज तक त्रिशंकु आकाश में उसी प्रकार से लटक रहा है ।

मुझे लगता है कि आज की भारत सरकार का विलकुल यही समस्या हो रही है । त्रिशंकु के समान लटक रहा है । गम्भीर अंगद के जैसा कदम उठाना चाहिए, सागर के गाम्भीर्य का उद्गारण लेकर हिमालय जैसा मन में स्थिरता लेकर, शांति लेकर इतने बड़े देश का शासन करने के लिए इस प्रकार का चरित्र लेकर खड़ा होना चाहिए, क्षणभंगुर पैनिकी बन कर ऐसे-ऐसे कदम उठाना कि बल खुद अपने

ही जाल में फँस जाएं, इससे देश का कल्याण नहीं होने वाला है (समय की घंटी) ।

मैं बहुत आदरपूर्वक आग्रह कर रहा हूँ कि संवैधानिक मामला जुड़ा हुआ है, कानूनी मामला जुड़ा हुआ है, आप इसको सिलेक्ट कमेटी में भेजिए और इसके ऊपर पूरी तरह विचार होने दीजिए ।

इतना ही वह बार मैं समाप्त कर रहा हूँ

MR. DEPUTY CHAIRMAN: Yes, Mr. Gurudas Das Gupta.

SHRI GURUDAS DAS GUPTA (West Bengal): Sir, I rise not to support the Bill because this Bill is dubious, because this Bill is ambiguous and because this Bill is only a sign of the overpossessiveness of the Central Government for more administrative powers in the name of fighting terrorism and terrorist activities. Therefore, I stand not to support the Bill and to me the introduction of the Bill is an ominous sign too.

Sir, something has been deliberately said and something has been deliberately not said in order to stretch out the use of the powers that shall vest with the Government after the passage of the Bill. In the preamble, the words "internal disturbances" have been mentioned. But what does internal disturbance mean? Internal disturbances may mean communal riots; internal disturbances may mean strikes by industrial workers; and internal disturbances may mean any democratic movement fighting against the reactionary policy of the Government in power. Therefore, in the name of curbing internal disturbances, this Guard, this new army in the name of Guard, can be made use of. Therefore, this is ambiguous again. To give another example of something that has not been deliberately said: It is not known whether it is necessary to get the consent of the State where you want to make use of this Guard, whether you can unilaterally send this Guard to a particular part of the country without the State Government asking for it or whether you require consent before sending the

Guard there. It is ambiguous and it has deliberately been made ambiguous so that the Government can use the power which it would be armed with after the passage of the Bill. It is being said that the Guard can take part in action in foreign territories. What does it mean? While pursuing the terrorists, it can cross the border. That is one thing. Somebody says that the Government can make use of the foreign guards in order to fight disturbances on the soil of a foreign embassy. But nothing is clear. Therefore, before we can extend our support to the Bill, I feel that it is essential that the ambiguities are cleared. That is, that which has not been deliberately said should be stated and the provision of the Bill should be made clear.

Therefore, Sir, this Bill, according to my party, is not necessary at the moment, because they have multiple Central agencies to fight the disturbances. You have the CRP and many more like that. Sir, may I ask the Government: what more does the Government need to fight terrorism, or in the name of fighting terrorism how much more power does the Government need to assume itself of? Therefore, Sir, it is a question of multiplicity. Multiple agencies are being created. And of course there is the danger that there will be lack of coordination among multiple agencies. You are forming Special Courts for them. It is almost like military or semi-military. Therefore, how many Central agencies, how much more or additional power does the government need to fight the situation which they speak of in the Preamble?

Sir, this Bill, to my understanding, therefore, is indicative of the trend of assumption of excessive powers in the name of fighting terrorism. If you speak of terrorism and, we are second to none. But in the name of fighting that trend of terrorism if you assume excessive powers, that of course is ominous.

Therefore, I do not rise to support the Bill.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Sir, the National Security Guard was inaugurated in 1984

and the Bill has come to us in 1986 to regulate its formulation and actions. I find from the Financial Memorandum that Rs. 3.86 crores has been spent in 1985-86. I would like to know from the hon. Minister, what is the strength of the force at the moment and what is the proposed expansion after the promulgation of this Bill?

The second point that I have to make is with regard to the constitution of the Guard. Clause 4, sub-clause (2) says:

"Subject to the provisions of this Act, the Security Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Security Guard shall be such as may be prescribed."

In other words, it is the Government of India alone which is empowered to select the personnel of the National Security Guard. I remember, Sir, that in this House three years ago there was a question of a riot force being constituted and the then hon. Prime Minister, Shrimati Indira Gandhi, had stated very categorically that while this force would be formulated, each minority community will be given due representation. I would like to ask the Minister whether this criterion will be taken into consideration while forming this force of the National Security Guard so that the minorities feel that the force will not be partisan.

The third point that I want to raise is, while recruiting this force, has it been taken into consideration that the people of all the States and regions will be recruited, and whether backward States like Jammu and Kashmir will also get representation in the National Security Guard? I want this question also to be answered. Sir, we have got a lot of complaints in this House also about the way in which the PAC deals with the cases of riots. I feel that the present force is being constituted to combat such a tendency. If that is so, then the orientation of this force should be in such a way from the very beginning that

[Shri Ghulam Rasool Matto]

it should be really a secular force consisting of all the communities and regions as in the case of Army so that the people may have confidence in it and feel that this is the real force which is in their interest. Will the hon. Minister ensure that this thing will be done and the representation will be from all the communities?

There is Clause No. 20. It bars the officers from communicating with the press or publishing any book or letter except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary or scientific character or nature. It clearly states that the officers are barred from publishing any book or article in any newspaper. I know cases where officers come out with books of this nature only after three or four years of their retirement. Mr. B. N. Malik has talked about certain secrets in this book. I would request the hon. Minister to ensure that this ban on publication or communication shall apply to the officers who retired from this force.

I have witnessed a particular tendency in Punjab. The people there want C.R.P. instead of the local force. Why do they want it? I asked some of them. They said that the local police was partisan to one community or the other. So, they wanted the other force which shall not be partisan. What happened in Katra Dhulu and other places in Amritsar...

SHRI DARBARA SINGH: It is in fact for that.

SHRI GHULAM RASOOL MATTO: That is exactly what I want. I want an assurance from the Minister. What has actually happened is that one community wanted the Central Reserve Police to be there. But when the Central Reserve Police is there, that central force also tended to be partisan. That is my point. It also tended to be partisan. I want to ask the hon. Minister how he is going to ensure that this police force shall not be partisan and shall be like the Army. We are proud of our Army. The Army has not indulged in such things. Will he assure us that the National Security Guard that he is proposing to constitute will be

such that it will not be partisan and we will really be proud of it like the Army?

My last point is with regard to the point raised by Mr. Sukul. I agree with him that there is dismissal, but there is no provision for resignation. If you don't want a person and you want to get rid of him, it is proper that you have a provision for resignation. I would like to know how the interests of this Force are going to be safeguarded so far as their service conditions are concerned.

میں اُنہیں پوچھنا چاہتا تھا کہ وہ کیا 1983 میں جو انہیں فوری ڈس میسڈ کیا گیا تھا، تو اب اس کے بارے میں ان کے خیال کیا ہیں؟

میں بی پوچھنا چاہتا تھا کہ منسٹر صاحب سے کہ 1983 میں انہوں نے فورس کانسٹی ٹیوشن کیا کیا - تو اب اس کے بارے میں ان کے خیال کیا ہیں -

SHRI DARBARA SINGH (Punjab): Sir, I have not much to speak on the subject. I would like to say only this much for the time being that the present existing Forces which are working in certain States should also be trained with modern equipment. The present Force will come into being after some time. But the Forces which are already working in different States must also be given modern weaponry so that they may be able to keep off the terrorists...

SHRI GHULAM RASOOL MATTO: Give secular training.

SHRI DARBARA SINGH: Unless you give them training, how can they handle a machine-gun. New weapons are coming up. They must be properly trained so that they may be able to keep up the vigilance on the border very much. Here some Members have said that this is not needed. This Force is needed most because of the fact that it will be trained for a specific purpose where the present Forces are not able to act. So, they will be semi-military, they will be like-military...

†[Transliteration in Arabic script.]

**SHRI GURUDAS DAS GUPTA:** But not military.

**SHRI DARBARA SINGH:** Why should it be military? It is a police force to guard certain areas. What happened in Punjab has been stated by somebody here. Because of the fact that terrorism could not be contained, this new Force is being set up. So, I would like to say that this is a very good measure which has been taken by the Government, and it will go a long way to help us in minimising terrorism. And I entirely agree with the other Members who have spoken here that it is the forces from outside which are working against us, and we have to deal with them with a firm hand.

**SHRI GHULAM NABI AZAD:** Mr. Deputy Chairman, Sir, I am thankful to the hon. Members for their active participation in the discussion on the National Security Guard Bill and also commending the Government for having this Bill before this august House. Sir, some points have been raised by the hon. Members which I would like to clear. Most of the hon. Members from the Opposition side mentioned as to where was the need for having this type of Force when we have already a number of para-military forces existing at the moment. Sir, I would like to clear to my friends about the question of recruitment, of having a separate force to deal with the terrorists when we have already a number of Armed Forces such as the BSF, the CRP, the ITBP. In this regard, it is submitted that each Armed Force has a distinct role. The BSF and ITBP are meant for border protection. The CISF is for watch and ward duties for the industrial installations. And the only Force left is the CRP which is the only Force meant for dealing with the ordinary law and order problems whenever we are short of local police.

Sir, as you know the terrorists are trained in modern combat tactics and also are equipped with modern weapons. They can be effectively dealt with only by such a force as may have been specially equipped and trained to deal with such elements. Sir, I would like to submit that the national security guard is being raised as

an elite commando force specially equipped and trained with modern weapons and specially trained to deal with terrorists who are equipped with sophisticated weapons and are receiving combat training to carry out these operations. I think this part should be clear to my hon. friends on the other side.

Sir, as far as the second part is concerned, because most of the hon. Members have mentioned about the court martial, I would like to clear that because unless they understand the mechanism of the constitution of this force it will not be easy for the hon. Members to understand the different clauses in this Bill whereby they are at par with Army and other para military forces.

Sir, we have mentioned that as far as the constitution of the force is concerned, this will be approximately 90 per cent from the Army, CRPF, Border Security Force etc. and rest I think hardly ten per cent or even less than 10 per cent will be from the police. That is why when hon. Members were mentioning about that as to why different clauses have been put which are very strict enough to deal with this force it is so because it is mostly at par with the other para military forces, in fact, even much more stricter because it is a combination of all para military forces including the Army.

Sir, some of our hon. Members have had an apprehension about the misuse of this force may be in their respective States. I would like to clear the point that the role of this force or the deployment of this force will be such that the Central Government will not use this force for ordinary law and order duties which is the domain of the State Government and this would tantamount to the interference in the affairs of the State. This is what has been mentioned by the hon. Members. Sir, I would like to assure the hon. House and the Member that the force shall be utilised exclusively for dealing with terrorists and the internal disturbances caused by the terrorists in the respective States and they shall be deployed like other para military forces and armed forces within the existing constitutional provisions.

**SHRI GURUDAS DAS GUPTA:** If it is so, why it has not been made explicitly clear in the body of the Bill. It is only a verbal assurance that the Minister is kind enough to give. But if the intention is clear why is it not made explicitly clear in the body of the Bill itself.

**SHRI GHULAM NABI AZAD:** Sir, this is not a verbal assurance. Sir, if everything were to be provided in the Bill where was the need of my replying to you then. Then, Sir, there are some rules going to be provided and whatever shortcomings are there, they will be covered in the Rules, while framing the rules. (*Interruptions*)

Sir, Mr. M. A. Baby has mentioned about the deployment of the forces. I have already cleared that. Deployment of force from the Centre will be only at the request of the State Government and with the consent of the State Government. We are not going to have any overriding power or we are not going to thrust this force upon the State Government. The hon. Member also mentioned that they should be allowed participation in political activities. I am afraid we cannot allow them. This is not a CPI(M) party where we can allow even the police force. This is an armed force where we cannot allow an armed force to take part in political activities. Then he mentioned about some religious association etc. This is a misconception. We have not provided for any Hindu association or Muslim association or any such thing. Association means only the social association. Then he mentioned about deployment of force, which I have already answered.

I am thankful to Mr. Sukul for supporting it. He said that there should be no dissatisfaction among the personnel and the officers of this force. We have already made that provision. They will be given extra allowance, like deployment allowance and they will be given some other facilities also and I am sure there will be no scope for any discontentment or dissatisfaction as far as the pay and other emoluments are concerned. Mr. Sukul referred to section 7 and wanted to know the meaning of the 'term of engage-

ment.' It means that the person is not going to be in this force permanently. He will be there on deputation for a particular period, say five years or three years or two years, and that particular period will be taken as his term of engagement. So, during that period he will not be allowed to resign. So, it is not something permanent. After serving for a particular period, he will have to go back to his parent organisation. We are not keeping them in this force permanently because we want to have this force of youth profile and we would not like to have very old or middle-aged people in this armed force because it will be very difficult for them to combat terrorists. So, just to keep the youth profile in this force, we have provided that they will be there only for a short period and after that, they will go back to their parent organisation and will be replaced by new faces drawn from the army, from the CRPF and BSF etc.

**SHRI MUKHTIAR SINGH MALIK** (Haryana): What about officers?

**SHRI GHULAM NABI AZAD:** It is for all. Officers in the age group of 30 to 35 years will not be difficult to get and we want personnel who are in their mid-thirties. As far as the officers are concerned, sometimes, it is difficult to have officers, top ranking officers, in the mid-thirties. Of course, in the case of officers, there is a little latitude, but not that much latitude as in the case of other paramilitary forces.

**AN HON. MEMBER:** Ideas are very clear

**SHRI GHULAM NABI AZAD:** Hon. Member, Shri Sukul, mentioned about the right of association. I do not think, this is such a force where we can have any type of association. This may create a lot of problems in regard to discipline etc.

He has mentioned about demonstration. I have already mentioned that this is going to be an extra-disciplined force and, therefore, there should not be any scope for any demonstration. He has raised one very relevant point. He has asked

why the punishment should be seven years in the case of personnel and 14 years in the case of officers.

SHRI P. N. SUKUL: It is vice-versa.

SHRI GHULAM NABI AZAD: Sorry. It is fourteen years in the case of personnel and seven years in the case of officers. I would like to make it clear. Section 21 deals with disobedience. The offence of disobedience of orders of a senior officer or misconduct has to be treated as a grave offence because obeying the orders of the superior is the foundation of discipline. Otherwise, it will not be possible to combat terrorists. What will happen if a senior officer issues an order to a junior officer and he does not obey that order? This is disobedience and this is a serious charge-against the person concerned. It cannot be taken easily. That is why, a punishment of fourteen years has been provided. In the case of ill treatment of a junior officer by a senior officer, I do not think, it is such a heinous offence compared with disobedience.

Shri Sukul has mentioned about the provision for pardon. He also said that there should be a provision for legal help after a case goes before the National Security Guard Court. This will be provided for in the rules. Then, he mentioned about mercy petition. As I have said already, this is on par with the Army. Some hon. Member said that this Bill is a copy of the Army Act and the BSF Act. It is true, the Army, the BSF and the CRPF Acts have been kept in mind while framing the provisions of this Bill. This Bill is based on the provisions of these Acts.

Shri K. G. Maheswarappa asked why should the force be sent outside the country. I would like to make it clear that we are not sending this force to any other part of the world. This is only intended to combat terrorism in the case of hijacking. When a plane is hijacked to some other country, if they need our help, only in that case, this force will be sent outside the country and not otherwise. He

has also mentioned that there is no co-ordination between different para-military forces. I would like to point out that in Punjab there is very close co-ordination between the BSF, the CRPF and the State Police. The Director General of Police is also Additional Director General of CRPF and BSF. I do not think there can be any better coordination than this.

MR. DEPUTY CHAIRMAN: I think the Minister can now thank the House for their support to the Bill.

SHRI GHULAM NABI AZAD: I can thank them but, Sir, Mr. Matto mentioned about the strength of the force. I do not think it is proper to give details of the strength of the force, whether of the existing force or of the future strength. I am sorry, he will agree with me that it is not proper to reveal this.

He also mentioned about giving representation to the States, to the minorities, etc. We will definitely take due care to see that all sections of the community and all the States of the Union are given representation.

With this I once again thank all the Members of Parliament from both the sides of this House for having taken active part in this debate, and I request that the Bill be passed.

MR. DEPUTY CHAIRMAN: Now I will put Mr. Mohanan's amendment to vote.

The question is:

"That the Bill to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States, against internal disturbances and for matters connected therewith be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Miss Jayalalitha Jayaram
2. Dr. (Shrimati) Sarojini Mahishi

[Mr. Deputy Chairman]

3. Shrimati Renuka Chowdhury
4. Shri V. Gopalsamy
5. Shri Chitta Basu
6. Shri N. E. Balaram
7. Shri Atal Bihari Vajpayee
8. Shri Nirmal Chatterjee
9. Shri Mostafa Bin Quasem
10. Shri K. Mohanan

With instructions to report by the first day of the next Session."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I will now put the motion.

The question is:

"That the Bill to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: Now we shall take up clause by clause consideration of the Bill.

*Clauses 2 to 140 were added to the Bill*

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

SHRI GHULAM NABI AZAD: Sir, I move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

# MESSAGE FROM THE LOK SABHA

## The Taxation Laws (Amendment and Miscellaneous Provisions) Bill, 1986

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose The Taxation Laws (Amendment and Miscellaneous Provisions) Bill, 1986, as passed by Lok Sabha at its sitting held on the 21st August, 1986.

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay a copy of the Bill on the Table.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11.00 a.m. tomorrow.

The House then adjourned at fifty-four minutes past six of the clock, till eleven of the clock, on Friday, the 22nd August, 1986.