

Eighth Series, Vol. XX, No. 22

Wednesday, August 20, 1986
Shravana 29, 1908 (Saka)

LOK SABHA DEBATES **(English Version)**

Sixth Session
(Eighth Lok Sabha)



(Vol. XX contains Nos. 21 to 24)

LOK SABHA SECRETARIAT
NEW DELHI

Price : Rs. 6.00

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LOK SABHA DEBATES

LOK SABHA

Wednesday, August 20, 1986/
Sravana 29, 1908 (Saka)

*The Lok Sabha met at
Eleven of the Clock.*

[MR. SPEAKER *in the Chair*]

[English]

DR. CHINTA MOHAN (Tirupati) :
Sir, 30 lakhs of people have been affected
and Rs. 9 crores worth of property were
destroyed due to floods...

MR. SPEAKER : Without even your
telling me, I have already talked it over.
We are going to have calling-attention day-
after-tomorrow on floods.

SHRI BASUDEB ACHARIA (Ban-
kura) : You are allowing a discussion on
flood situation today, Sir ?

MR. SPEAKER: No. We are going to
have a calling-attention on day-after-
tomorrow. Day-after-tomorrow, calling-
attention is there on the subject.

SHRI INDRAJIT GUPTA (Basirhat) :
Sir, I have given you a notice last week
also for a statement to be made. The
Central Industrial Security Force which is
directly under the Ministry of Home
Affairs is supposed to protect certain
Public Sector units. They have carried
out a big lathi-charge at Bokaro, injuring
severely about 150 workers. There is
going to be a strike on the 30th.

MR. SPEAKER : I will have to find
out.

SHRI INDRAJIT GUPTA : I have
given you. You can ask for the report.

MR. SPEAKER : I think, we have
already asked for it. We will find out.

SHRI INDRAJIT GUPTA : The
Minister of Home Affairs knows about it,
what has happened there. The DIG has
got to be punished. Otherwise, there will
be a strike on the 30th.

SHRI SURESH KURUP (Kottayam) :
Sir, the military dictatorship in Pakistan
has come down heavily on the Movement
for Restoration of Democracy.

MR. SPEAKER : What can we do
about it ? I cannot.

SHRI SURESH KURUP : We should
condemn that.

MR. SPEAKER : It is an internal
affair of that country. I cannot do any-
thing. That is all. Don't pursue it. When
I have given my ruling, it is all right.

SHRI SURESH KURUP : Our
Government should condemn that.

MR. SPEAKER : We cannot do any-
thing. It is their internal affair. We can-
not do anything.

DR. V. VENKATESH (Kolar) :
There is heavy concentration of Pakistani
troops on the Pakistan-occupied-Kashmir
area. Unprovoked firing took place killing
several people.

MR. SPEAKER : We will find out.
You may give notice.

SHRI S.M. GURADDI (Bijapur) :
Sir, I have given an adjournment-motion.
(Interruptions)

MR. SPEAKER : Let me know what
is your point of order ?

SHRI S.M. GURADDI : It is not a
point of order. I have given an adjourn-
ment-motion.

MR. SPEAKER : It does not
matter. I have not allowed that.

SHRI P. KOLANDAIVELU (Gobi-
chettipalayam) : Today we have got a
good news that today is our Prime
Minister's 42nd birth day. We wish him
a long, happy and prosperous life.

MR. SPEAKER : Thank you. Very
nice.

SHRI P. KOLANDAIVELU : Next
thing is, I have given a privilege motion
against *India Today* and also Bhagwan
Rajneesh. He has stated that...

MR. SPEAKER : I will find out. We
will take necessary steps. We will find
out.

SHRI P. KOLANDAIVELU : He is
an anti-national.

MR. SPEAKER : We will take
necessary steps.

SHRI P. KOLANDAIVELU : It is
highly dangerous for the country.

MR. SPEAKER : I will find out and
then let you know. Let me take necessary
steps. Now, I have done it.

SHRI P. KOLANDAIVELU : He has
stated : "It will be a great day when India
becomes a confederation of nations with
30 Presidents and 30 Prime Ministers."
He has stated like that.

MR. SPEAKER : I will take necessary
steps. Please sit down.

SHRI SOMNATH CHATTERJEE
(Bolpur) : Sir, the other day during the
recess, we had seen the Delhi Magistrates
and Subordinate Judges...

MR. SPEAKER : It does not matter.

SHRI SOMNATH CHATTERJEE :
They have serious grievances.

MR. SPEAKER : May-be, you give
me something to discuss it. Bring it in a
proper manner, not like this.

SHRI SOMNATH CHATTERJEE :
They have been forced to come out on the
streets.

MR. SPEAKER : Might be. But you
give me something. I cannot take notice
of it like this. This is irrelevant. This is
not proper.

SHRI SOMNATH CHATTERJEE : I
have given notice.

MR. SPEAKER : We will see.

SHRI AMAL DATTA (Diamond Har-
bour) : All political parties including
everybody here support the public enter-
prise. But what happens in practice is
this. Wagon orders have been diverted by
the bureaucracy from public sector to
private sector.

MR. SPEAKER : You give me some-
thing I have always allowed you. Mr.
Datta. You can give me something. If we
find time and if I admit it, we shall dis-
cuss this problem, according to whatever
you say, not like this.

(Interruptions)

MR. SPEAKER : I will admit it, if it
is proper.

SHRI AMAL DATTA : I have given
that. If wagon orders are taken away then
this company will again become sick.

MR. SPEAKER : It is all right. We
will see.

DR. DATTA SAMANT (Bombay South Central) : I have given calling-attention 3 times and also adjournment-motions...

MR. SPEAKER : It does not matter. I have got 180! And there is no time.

DR. DATTA SAMANT :...regarding the closure of more than 100 factories in Bombay and 40,000 workers are affected.

MR. SPEAKER : What is there ? There is no time.

DR. DATTA SAMANT : It is a serious problem which needs discussion.

MR. SPEAKER : All right. This is all.

DR. DATTA SAMANT : I have given 3 calling-attention and 2 adjournment-motions.

MR. SPEAKER : That is all right. It does not matter.

[Translation]

You please resume your seat.

11.05 hrs.

PAPERS LAID ON THE TABLE

[English]

MR. SPEAKER : Mr. Ghani Khan Choudhury. You may lay it on the Table and go. He has to go.

SHRI AMAL DATTA : Is he making a statement on...(Interruptions)

MR. SPEAKER : Please sit down. He is laying a paper on the Table.

Twenty Point Programme—1986

THE MINISTER OF PROGRAMME IMPLEMENTATION (SHRI A.B.A. GHANI KHAN CHOUDHURY) : Sir, I

beg to lay on the Table a copy of the Twenty-Point Programme—1986 (Hindi and English versions).

[Placed in Library. See No. LT—3094/86].

MR. SPEAKER : Have you laid it ?

SHRI A.B.A. GHANI KHAN CHOUDHURY : Yes, Sir. (Interruptions)

SHRI SURESH KURUP (Kottayam): Sir, I have given a privilege notice...

MR. SPEAKER : We have already written. We will find out and then come to you. It takes time. Everything takes time. It is not in my power to switch things on.

[Translation]

SHRI JITENDRA PRASADA (Shah-jahanpur) : Mr. Speaker, Sir, a news about the killings of 13 persons has appeared in today's newspapers...

[English]

MR. SPEAKER : That is a law and order problem to be tackled by the State.

[Translation]

SHRI JITENDRA PRASADA : I am not talking about law and order. The press has termed it as a terrorist activity whereas actually it is not a terrorist activity.

MR. SPEAKER : Not allowed. (Interruptions)*

[English]

MR. SPEAKER : Not allowed. This is a law and order problem to be tackled by the State.

(Interruptions)*

*Not recorded.

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilwara) : Mr. Speaker, Sir, the Instrumentation Limited, Kota, has been earning profit continuously, but about its merger with BHEL, the Government of India.

[English]

MR. SPEAKER : Not allowed. You give me something. Not like this. Not proper. Irrelevant.

SHRI S. JAIPAL REDDY (Mahbubnagar) : I have tabled a substantive motion against Mr. Scindia, the Minister of Railways...

MR. SPEAKER : I have already done. I have taken steps to get the facts.

SHRI S. JAIPAL REDDY : I want an assurance from you that the matter will be discussed in this Session itself.

MR. SPEAKER : I did not say anything like that.

SHRI S. JAIPAL REDDY : It was my request. The Government is adopting dilatory tactics. It is not responding.

MR. SPEAKER : Not allowed. Some requests never materialise. If wishes were horses, we can ride over them.

SHRI S. JAIPAL REDDY : Government is not responding to it.

MR. SPEAKER : It takes time. It will come properly in its own time.

SHRI S. JAIPAL REDDY : It is a very serious matter.

MR. SPEAKER : It is alright. Do not pursue it further. I am taking steps. I have already reminded them.

SHRI S. JAIPAL REDDY : Government is not responding.

MR. SPEAKER : It does not matter. They have to.

(Interruptions)

SHRI S. JAIPAL REDDY : Government is deliberately adopting dilatory and dodging tactics. . .

MR. SPEAKER : Not allowed. I have not allowed him.

(Interruptions)**

MR. SPEAKER : Mr. Guraddi. You can give me in writing, but not an Adjournment Motion.

SHRI S.M. GURADDI : I have given, Sir. I have given a Calling Attention Notice.

MR. SPEAKER : Papers to be laid on the Table.

11.08 hrs.

PAPERS LAID ON THE TABLE —CONTD.

Notification under Emigrations Act 1983

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P.A. SANGMA) : I beg to lay on the Table a copy of Notification No. S.O. 485 (E) (Hindi and English versions) published in Gazette of India dated the 11th August, 1986 declaring that work as an office assistant accountant, typist, salesman or nurse shall not be deemed to be work within the definition of clause (o) of sub-section of section 2 of the Emigration Act, 1983, under section 44 of the said Act. [Placed in Library. See No. LT-3085/86].

**Not recorded.

Notification under Essential Commodities Act, 1955 and statement for delay in laying these papers, Review on the working of and Annual Report of Bihar Fruit and Vegetable Development Corporation Ltd. Patna for 1983-84 and Statement for delay in laying these papers.

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE MINISTRY OF FOOD AND CIVIL SUPPLIES (SHRI A. K. PANJA): I beg to lay on the Table—

- (1) A copy of the Pulses, Edible oilseeds and Edible Oils (Storage Control) Amendment Order, 1979 (Hindi and English versions) published in Notification No. S.O. 536 (E) in Gazette of India dated the 20th September, 1979 under-sub-section (6) of section 3 of the Essential Commodities Act 1955.

A statement (Hindi and English versions) showing reasons for delay in laying the notification mentioned at (1) above.

[Placed in Library. See No. LT-3086/86].

- (3) A copy each of the following papers (Hindi and English versions) under section 619A of the Companies Act, 1956 :

- (i) Review by the Government on the working of the Bihar Fruit and Vegetable Development Corporation Limited, Patna, for the year 1983-84.

- (ii) Annual Report of the Bihar Fruit and Vegetable Development Corporation Limited, Patna, for the year 1983-84 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

- (4) A statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (3) above.
[Placed in Library. See No. LT-3087/86].

Notification under Customs Act, 1962

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY): I beg to lay on the Table a copy of Notification No. G S.R. 1006(E) (Hindi and English versions) published in Gazette of India dated the 11th August, 1986 together with an explanatory memorandum regarding revised rates of exchange for conversion of Austrian Schillings, Deutsche Marks, Dutch Guilders and Italian Lire into Indian currency or vice-versa, under section 159 of the Customs Act, 1962.

[Placed in Library. See No. LT-3088/86].

All India Services (Study Leave) Second Amendment Regulations 1986

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): I beg to lay on the Table a copy of the All India Services (Study Leave) Second Amendment Regulations, 1986 (Hindi and English versions) published in Notification No. G S.R. 584 in Gazette of India dated the 9th August, 1986, under sub-section (2) of section 3 of the All India Services Act, 1951.

[Placed in Library. See No. LT-3089/86].

Delhi Agricultural Produce Marketing (Regulation) (General) Amendment Rules, 1985

THE MINISTER OF STATE IN THE DEPARTMENT OF AGRICULTURE AND COOPERATION (SHRI YOGENDRA MAKWANA): On behalf of Shri Ramanand Yadav, I beg to lay on the

Table a copy of the Delhi Agricultural Produce Marketing (Regulation) (General) Amendment Rules, 1985 (Hindi and English versions) published in Notification No. F.6/2/85-DAM in Delhi Gazette dated the 19th February, 1986, under subsection (6) of section 63 of the Delhi Agricultural Produce Marketing (Regulation) Act, 1978.

[Placed] in Library. See No. LT-3090/86].

Reviews on the working of and Annual Reports of Tamilnadu Agro Industries Corporation Ltd., Madras for 1982-83 and Madhya Pradesh State Dairy Development Corporation Bhopal for 1981-82 and two Statements for delay in laying these papers.

THE MINISTER OF STATE IN THE DEPARTMENT OF AGRICULTURE AND COOPERATION (SHRI YOGENDRA MAKWANA) : I beg to lay on the Table—

(1) A copy each of the following papers (Hindi and English versions) under section 619A of the Companies Act, 1956 :-

(a) (i) Review by the Government on the working of the Tamilnadu Agro Industries Corporation Limited, Madras, for the year 1982-83.

(ii) Annual Report of the Tamilnadu Agro Industries Corporation Limited, Madras, for the year 1982-83 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-3091/86].

(b) (i) Review by the Government on the working of the Madhya Pradesh

State Dairy Development Corporation, Bhopal, for the year 1981-82.

(ii) Annual Report of the Madhya Pradesh State Dairy Development Corporation, Bhopal for the year 1981-82 along with Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(2) Two statements (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See No. LT-3092/86].

(3) (i) A copy of the Annual Report (Hindi and English versions) of the National Agricultural Cooperative Marketing Federation of India Limited, New Delhi, for the year 1983-84 along with Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the National Agricultural Cooperative Marketing Federation of India Limited, New Delhi, for the year 1983-84. [Placed in Library. See No. LT-3093/86.]

(iii) A copy of the Annual Report (Hindi and English versions) of the National Agricultural Cooperative Marketing Federation of India Limited, New Delhi,

Rajya Sabha

for the year 1984-85
along with Audited
Accounts.

- (iv) A copy of the Review (Hindi and English versions) by the Government on the working of the National Agricultural Cooperative Marketing Federation of India Limited, New Delhi, for the year 1984-85.

- (4) Two statements (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (3) above.

[Placed in Library. See No. LT-3093/86]

11.09 hrs.

MESSAGES FROM RAJYA SABHA

[English]

SECRETARY-GENERAL : Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha :—

- (i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha at its sitting held on the 14th August, 1986, passed in accordance with the provisions of article 368 of the Constitution of India, without any amendment; the constitution (Fifty-Fourth Amendment) Bill, 1986 which was passed by the Lok Sabha at its sitting held on the 12th August, 1986."

- (ii) "In accordance with the provisions of sub-rule (6) of rule 186 of the Rules of Procedure and

Conduct of Business in the Rajya Sabha, I am directed to return herewith the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, which was passed by the Lok Sabha at its sitting held on the 12th August, 1986, and transmitted to the Rajya Sabha for its recommendations and to state that this House has no recommendations to make to the Lok Sabha in regard to the said Bill."

- (iii) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 14th August, 1986 agreed without any amendment to the Tamil Nadu Legislative Council (Abolition) Bill, 1986 which was passed by the Lok Sabha at its sitting held on the 12th August, 1986."

**DELHI FIRE PREVENTION AND
FIRE SAFETY BILL***

[English]

THE MINISTER OF STATE IN THE DEPARTMENT OF STATES (SHRI GHULAM NABI AZAD): Sir, I beg to move for leave to introduce a Bill to make more effective provision for the fire prevention and fire safety measures in certain buildings and premises in the Union Territory of Delhi.

MR. SPEAKER : The question is ;

*Published in Gazette of India Extraordinary, Part-II, Section 2 dated 20.8.1986.

"That leave be granted to introduce a Bill to make more effective provision for the fire prevention and fire safety measures in certain buildings and premises in the Union Territory of Delhi."

The motion was adopted

SHRI GHULAM NABI AZAD : Sir, I introduce the Bill.

11.10 hrs.

TAXATION LAWS (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL*

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Sir, on behalf of Shri Vishwanath Pratap Singh, I beg to move for leave to introduce a Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and to provide for exemption to a Government company from income-tax and surtax for a specified period.

MR. SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and to provide for exemption to a Government company from income-tax and surtax for a specified period."

The motion was adopted

SHRI JANARDHANA POOJARY : Sir, I introduce the Bill.

11.11 hrs.

MATTERS UNDER RULE 377

[English]

(i) **Need to give exhaustive coverage to Parliamentary proceedings on Doordarshan and A.I.R.**

SHRI SHANTARAM NAIK (Panaji) : Sir, I suggest that the Ministry of Information and Broadcasting should take following measures in regard to the coverage of Parliamentary proceedings on the Doordarshan and AIR :

- (i) Duration of Sansad Samachar and Parliament News should be increased to twenty minutes with ten minutes to Lok Sabha proceeding and ten minutes to the Rajya Sabha proceedings. There bulletins should be relayed by all the transmitters in the country without any exception.
- (ii) Major news-bulletins of T. V. and AIR should cover, at least two starred and two unstarred questions each of the Lok Sabha and Rajya Sabha; with the names of questioners and not merely the names of Ministers replying to the questions as is presently done.
- (iii) Major TV and AIR news-bulletins should, at least, mention the names of speakers on Bills, General Discussions and the like, and if necessary, duration of these bulletins too should be increased.
- (li) **Demand for a Nuclear Power Plant in West Bengal**

SHRI ASUTOSH LAW (Dum Dum) : Sir, generation of required amount of power has remained a persistent problem for West Bengal for over the decades. During the 7th Plan period the additional capacity of 932.5 MW including a spill-over of 580 MW from the 6th is Plan

expected to be installed in the State. Despite the situation, there will be a gap between the demand supply to power of around 1030 MW according to the estimate prepared by perspective power planning Committee. According to the Committee the demand for power in the State for the years 1995 and 2000 AD would be around 3,411 MW and 4409 MW respectively. Availability of power from the existing capacity is estimated to reach 2309 MW in the year 1995 which will leave a shortfall of 1102 MW in supply.

One way of achieving increased capacity may be greater utilisation of the existing thermal plants and to set-up new Thermal Power Projects. Opening of thermal power plant demands and ensures an adequate supply of coal, although all India production of coal has increased significantly but coal production in West Bengal has remained almost stagnant. Time factor should also be taken into account. Normally, the lead time for a coal based power plant is about 7 to 8 years.

The setting up of nuclear power plants in the State seem to be most powerful choice.

There are very strong considerations for setting up a nuclear power plant in West Bengal. If the power problem of West Bengal is to be solved on a permanent basis, the nuclear power has to be developed in the State in a big way.

KUMARI MAMATA BANERJEE (Jadavpur): Sir, today the House must congratulate our Prime Minister.

SHRI INDRAJIT GUPTA: It has already been done.

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilara): Please convey congratulations to the Prime Minister on behalf of all of us.

[English]

SHRI DINESH GOSWAMI (Guwa-

hati): Congratulations should be followed with sweets.

KUMARI MAMATA BANERJEE: You should first congratulate then we will give you sweets.

[Translation]

MR. SPEAKER: I shall convey to him.

MATTERS UNDER RULE 377—Contd.

[English]

(iii) Demand for more facilities to Railway Commuters of Nagpur City

SHRI BANWARI LAL PUROHIT (Nagpur): Sir, I want to draw the attention of the House towards the tremendous hardships faced by the railway commuters of Nagpur city. Everybody knows that Nagpur is the Central place in India. All the East-West bound and South-North trains pass through the city and vice versa. This important city is divided in two parts by the railway tracks. Railway station and booking windows are on one side. There is only one bridge for the people of old city to come and there is tremendous rush on the bridge as well as on the railway station. Some time back a proposal was sent by the residents wherein it was demanded that the booking window reservation counters should be opened on the other side also so that the rush was minimised. But at that time there was congestion on this side also due to orange market but since this market has been shifted, it is high time that Government should take immediate steps to construct the platform and set up booking counters etc. on the other side also so that the difficulties faced by the commuters are eliminated. I, therefore, request the Minister of Transport that a team of high officials may be sent there to assess the feasibility of the proposals and also expedite the same at the earliest.

- (iv) Need to sanction Rs. 50 crores to Andhra Pradesh for relief measures in the flood affected areas and need to start an institute of "Disaster Management" in the State.

DR. CHINTA MOHAN (Tirupati) : The death toll due to the unprecedented cyclone hit caused floods in Godavari last week has risen to about 150. Thirty lakh people have become homeless and the loss of property is about Rs. 900 crores. Andhra Pradesh, Orissa and Tamil Nadu coastal areas have been very prone to floods, cyclones and drought since 1976. The Chief Minister of Andhra Pradesh, Central team and the Prime Minister visited the flood affected areas. There should be revolving fund to meet such disasters. For providing immediate relief, another about Rs. 50 crores may be sanctioned to the State Government of Andhra Pradesh. An institute of 'disaster management' may be started at Tirupati for training the personnel for rehabilitation of the victims.

- (v) Demand for more financial assistance to Assam for implementing flood control projects.

SHRI M. R. SAIKIA (Nowgong) : Sir, Assam has been suffering from serious problem of floods and erosion since long, which has been badly affecting entire economy of this backward State. The great threat being posed by erosion to the existing flood control structure as well as habitation and cultivation areas around Deorighat Matmara, Singra, Muklamara, Howlightat Chunari, Baliukuchi, Fafirganj, Sough Salmara, Deogharia and also some other parts of the State call for immediate anti-erosion measures. But with the present trend of annual allocation of Rs. 13 crores under loan assistance for flood control works of the Brahamputra Valley, it is not possible for the State Government to venture upon costly projects to prevent erosion and floods. Lack of funds is the only constraint in confronting this problem of erosion and floods in the State. The economic development of this backward State depends upon the solution of the problems of erosion and floods.

Therefore, I urge upon the Central Government to extend more financial help for implementation of some flood control projects to tame and harness the extensive river system of Assam.

- (vi) Necessary measures needed to improve the condition of cotton growers.

SHRI DIGVIJAY SINH (Surendranagar) : Mr. Speaker, Sir, despite the fact that it has been admitted that India produces more cotton than what can be absorbed in the national or international market at economic rates, no real steps have been taken to ameliorate the conditions of the growers. No cash compensatory scheme has been given for exporting cotton nor any real incentives given to those farmers who will switch to growing other types of crops. Therefore, I request the Government to take necessary steps in this regard.

[Translation]

- (vii) Need to start drilling at Jaisalmer, Jodhpur and Bikaner in Rajasthan for discovery of oil and gas.

SHRI VIRDHI CHANDER JAIN (Barmer) : Mr. Speaker, Sir, under Rule 377, I would like to draw your attention towards a matter of public importance. 28600 sq. km. area of Jaisalmer, Bikaner, Nagaur, Ganganagar and Jodhpur districts in Rajasthan has been assigned to the Oil India Limited for drilling and discovery of oil and gas.

The Oil India Limited has conducting a seismic survey of this area in collaboration with a French Company. The latest method of "bibroesis" was adopted to carry out the said survey.

This survey reveals that there is every possibility of the availability of gas and petroleum under a depth of 3500 metres below the ground level in Rajasthan.

The Indian Oil Limited has to start the drilling of wells for exploring crude

in the month of September this year in Rajasthan, but till today they have not procured the requisite modern drilling machine. Earlier there was a provision of Rs. 13 crores for the purchase of the said machine but now even that provision is not there.

It is also learnt that the World Bank has refused to grant loan to the Oil India Limited for this purpose.

The Petroleum Department of the Central Government is indifferent towards it and is not taking any interest. As a result of it, the drilling work for the discovery of oil in Rajasthan is in doldrums.

The exploitation at oil and gas from Rajasthan can completely transform the condition not only of the desert area but of the entire country.

Hence, I request the Petroleum Department of the Centre to start the drilling work on war-footing in September, 1986 in Rajasthan as seismic survey of this area has already been completed.

(viii) Need to construct a fly-over at Saifabad Railway crossing in Barabanki district of Uttar Pradesh.

SHRI KAMLA PRASAD RAWAT (Barabanki) : I would like to draw the attention of the Government towards the Saifabad Railway Crossing in district Barabanki. Both the broad gauge and the narrow gauge lines pass through this Crossing. Hence, the gate at this Crossing is generally found closed, thereby causing jam of heavy vehicular traffic resulting in a lot of inconvenience. It is a very busy route. This railway crossing on the Lucknow-Faizabad road remains very busy because it connects Lucknow with Faizabad, Basti, Gorakhpur, Deoria, Bihar State, Gonda Behraich and Nepal. Therefore, a fly-over bridge should be constructed over the Saifabad Railway Crossing.

(ix) Need to recognise 'Dhobi' Community in Madhya Pradesh as a Scheduled Caste Community.

SHRI K. N. PRADHAN (Bhopal) : Mr. Speaker, Sir, under Rule 377, I would like to draw the attention of the House towards the following matter of public importance.

Even today, there are certain castes which are recognised as scheduled castes in some district of a State but are not recognised as such in the other districts of the same State. The commission appointed for the schedule castes and schedule tribes has also recommended that all such communities should be declared as schedule caste communities in the entire State.

In Madhya Pradesh, the "Dhobi" community is recognised as a schedule caste community only in Bhopal, Raisen and Sihore districts and in the rest of the districts of the State it is not recognised as such. The "Dhobi" community is the most back-ward community from social and economic point of view and every member of its community is equally poor in all parts of the State. Therefore, I request that the "Dhobi" community should be recognised as a scheduled castes community in the entire State of Madhya Pradesh.

The State Government of Madhya Pradesh has already written to the Central Government in this regard. Therefore, it would be better if the "Dhobi" community is declared as a schedule caste community in the entire State of Madhya Pradesh. Immediate action should be taken in this regard.

11.21 hrs.

NATIONAL SECURITY GUARD
BILL—Contd.

[English]

MR. SPEAKER : We will now take up Item No.10—Further consideration of

the motion. Shri Ajay Mushran.

• **SHRI AJAY MUSHRAN (Jabalpur) :** Sir, I stand to support the National Security Guard Bill. Before I speak on the Bill, may I have your permission to wish many happy returns of the day to the Leader of the House ?

So far as the National Security Guard Bill is concerned, it is brought not a day early. As a matter of fact, we have today something like National Security Guard. To give it a more comprehensive shape and more biting strength, I suppose this Bill is being brought and I support it.

As I was saying on 14th August when the inconclusive debate was held, so far as the training of these people is concerned, it will have to be something different from police or army. I am sure, the Government will look into it that these guards are trained with a view to give them top proficiency in the most sophisticated and latest weapons, as also the personal weapons. Their reflexes should be quickened and developed to a degree where they can react to the situation, because probably I can say that the situation they will have to meet will always be unforeseen, sudden and from quarters least expected. This force must be trained to develop the will to destroy.

In the beginning in the title of the Bill it has been stated that the National Security Guard Bill, 1986 is to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities. With all humility, I wish to say that combat is a continuing process. We do not want to have a continuing process as far as the terrorists are concerned. We want to destroy terrorists and we want to annihilate terrorism. Many a time, our national leaders—the Prime Minister, the Home Minister and also everybody in this House have expressed their unequivocal desire to destroy terrorism. And to destroy terrorism, we have first got to create a will to destroy terrorism. Mere combating will not do. In a force of this nature, every person will have

to be ready to sacrifice his life for the cause for which the force is being established. I feel that patriotism and complete faith in the cause for which they are being employed, has to be inculcated to the highest pitch, where a man develops psychologically complete disregard for personal safety. Unless personal safety is thrown into the background, a force like this will not be able to combat or destroy terrorists because these terrorists on their part, whether it be right or wrong, are extremely ill-motivated. They are motivated to the degree where they have no regard for their own lives.

Now as regards Intelligence, a lot of speakers spoke about our Intelligence System on the 14th of August. Today, we have about six agencies of Intelligence each of Ministry of Home Affairs, Ministry of External Affairs, Cabinet Secretariat—Ministry of Defence, local intelligence, State intelligence and what we have. In this particular context, I don't feel the necessity of having a separate intelligence system, but there has got to be some unit attached to each one of these national guard units which should be capable of extracting local intelligence about the movements, about locations of the terrorists, their hide-outs, their pile up of arms and ammunitions, their storage, their supply system, their movement system and all that, because by the time the information will come through the agencies which we have at the moment, the national security guard units on the spot will get information which will be too late. And therefore I would suggest, a nucleus of intelligence must be created out of these people and they should be people with local knowledge. Over the last 30 years, we have been trying to put down insurgency in some of our eastern borders. Of course, besides, the minimal local support, the hostile terrains help this insurgency there. But, in spite of the fact that thousands of troops and army located there, we have not been able to curb it completely. As far as intelligence system is concerned, I suggest that we must have a system where spontaneous information obtained must reach the person who is going to act or react.

On page 3 of the Bill, section 15(y) reads as follows :

“Whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or as is likely to cause, death.”

He does not likely to cause death. It is a sheer murder; it is a sheer killing; it is a sheer assassination by terrorists; and this expression of extreme, when it is used in sub section, definitely improves the psychology built up of the person who is going to fight terrorists.

If I am not wrong, the drafting has been heavily drawn from the Army Act. Now, I personally suggest that in Section 15, Chapter III, on page 6, wherever it is said, during operations—I don't think that there is going to be a continuous operation. They go and have a face to face fight with the terrorists. Then they withdraw. Then they re-organise and again go for a specific task which may come suddenly—so, I feel, instead of the words ‘during operations’ ‘in the face of terrorists’ words should be used, because that will have more impact when you are going toward punishment of death; it must be correlated with in the face of the terrorists. Then Section 16 (d) (ii) reads as follows :

“If he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.”

Does it mean that some time this force will not be on active duty? I feel that this service, this guard, this establishment must be treated as on service the moment they are established; they must be on active service all the time. Otherwise, this Bill, when it is passed and becomes an Act, will defeat its very purpose.

SHRI ATA-UR-RAHMAN (Barapet) : I rise to support the Bill with some comments now and later on with some amendments.

The aim and objects are not very clear. The Government found it expedient not to be very explicit in certain matters.

Well, it has been mentioned that the Bill is going to be limited to the territory of India and outside. It is not very clear what the National Security Bill will be doing outside India.

AN HON. MEMBER : Outside India ?

SHRI ATA-UR-RAHMAN : Yes, it is given here.

Going through the Bill, I find that it weighs heavily on the side of discipline, which of course, is most desirable, but it does not make it very clear as to how the object will be achieved and I know that a Policemen derives his powers from certain provisions of the acts, like the Police Act and the Cr. P. C. But here I notice that a security personnel who would be having interaction with the public does not have very clear powers. This is a matter which appears to have been kept vague. As for example, if he sees somebody doing something and if he has to take action, he has no power to arrest, he has no power to search, no power to ask witnesses to come and give evidence. It is not there. Clause 137 is not very clear on this point. And I wonder how a commando can act without having these powers.

I have found one or two lacunae about the explanation of the word ‘offence’. In Clause 2 against sub-clause (c) there is mention about ‘civil offence.’ That offence is described under Section 40 of the Indian Penal Code and this particular provision in the Penal Code is a general section which has not been found even though interaction between the police and public is there.

Well, another lacuna that I found is about this particular section which Shri Madhava Reddi mentioned, that about enrolment—all enrolments are done under particular sections of law, as for example,

[Shri Ata-Ur-Rahman]

the Police Act, and the Army also does it. An appointment certificate is issued. But here I do not find that enrolment has been provided for under a specific section. If a man is to be discharged after putting in some service, or removed or dismissed, a provision should have been there to say that he has been removed under section so and so. Of course there are very very exhaustive rules and regulations provided, but not in this particular matter.

It has been said about intelligence and I do not think that we should have any more intelligence services. Because, more intelligence services are not going to give us what we want.

Somebody said that our intelligence services were not working well. I put the question to the parents of the boys and girls whether they know what their sons doing behind them. It is not an easy thing to know that.

I will mention about a very very important point and that is about the role of the National Security Guard. One particular point that has to be taken note of is the role of the Army and the role of the Police. The role of the Army is to destroy the enemy and the role of the police, and in this particular instance the role of the National Security Guard is not to destroy the enemy but its action will have to be on a selective basis. Here you just cannot blast away because the people opposite are our own people. So, the action of the National Security Guard will always have to be selective. I also say that this provision of bringing in army in command of the National Security Guard will not be good, because in that event it will be a military force and not National Security Guard. I have a plenty of amendments in this respect to bring about.

The other thing is about specialisation. We will require a highly motivated, highly disciplined and highly dedicated force. We should not ask the new force to ape the Army. To meet the challenges of

terrorism is not entirely an Army's job. Like Police it is the job of the National Security Guard. If you call the Army officers to be in command, it will always be misunderstood. I would say that we should not ape the Army as we have done in the State Police and other Armed Police Forces.

I will come to the amendments later.

[Translation]

SHRI MOHD. AYUD KHAN (Jhunjhunu) : Sir, it has been the glory of India that the people of different races, civilizations and religions came to this land with this fact in view that it is a land of hospitality which provides shelter to all and their caravans can rest here. Even during the pre-historic times, such caravans had visited this country one after the other after covering long distances. This large and fertile land welcomed all of them and embraced them. All of us consider it as our motherland. It is, therefore, our sacred duty to protect our motherland. All the people who are born here, it is their duty to protect her. Just as a sepoy or an officer in the Army considers it his sacred duty to defend the borders of the country, similarly, it is the duty and responsibility of the citizens and the police forces meant for security to control the internal situation of the country.

The time has come when every citizen of the country should get compulsory military training for five years so that we may be able to defend our country in the time to come and we may prepare every citizen and every child of this country to defend it from the dangers facing us. In the Army, when a soldier defends the borders of his country, he remains above religion. At that moment he has only to do his duty which is to defend his motherland and that is his religion. When the Army personnel can do so, why a policeman cannot act likewise? When somebody put under his charge is killed, why the policeman should not open fire? It is a matter of shame for us that we depute a person for security purpose

who should not show a sense of self-respect and dutifulness and should not be able to perform his assigned duty. It is because of the fact that an inefficient and corrupt person is morally weak and he can never act boldly in the face of his enemy. Only a man of clean heart can come forward and speak eye to eye and clean heart is possible only when every citizen has love for his country.

The time has come when we must have an alert and disciplined police force like our Army. I enquired from so many I.P.S. officers as to what was the reason that our security guards could not open fire on the terrorists who were destroying the precious lives of our country and wanted to disintegrate the country. Their answer was that firstly our forces had been demoralised and secondly, if they did open fire, they were prosecuted for committing murder. So, we should make a provision in our law also to the effect that if the security personnel deputed for the security of a person finds that it is his duty to open fire in defence of that person, he could do so with impunity. In our Army Act also it is provided that at first a jawan should ask to stop, then challenge and if there is still danger, then he should shoot. In the Army, a jawan is taught that his duty and religion is to shoot at the enemy. So, this kind of sense of duty we should create among the police personnel.

The training given to the police personnel should also be of a different type than that given at present and they should have separate training camps. And the training of the officers of IPS cadre should also be of different type so that we may be able to deal effectively with the present challenges. It is the duty of all the citizens to understand that our country and motherland is one and to live peacefully we should maintain coordination among our civilizations, literature, arts, social customs and traditions. How can we tolerate that a citizen of our own country should try to harm the country, or he should try to harm the country by playing into the hands of the enemies of the country? It is our duty to come forward to fight such anti-national forces. The

terrorists may be of any caste or religion, instead of apprehending them, they should be given deterrent punishment at public places, so that the others may learn a lesson from that.

It is my request and suggestion that the most stringent laws should be enacted so that we all may come forward to protect and serve our motherland.

[English]

SHRI INDRAJIT GUPTA (Basirhat) : Sir, when we have been asked to support a Bill of this type, it is necessary to be quite clear in our own mind as to the provisions which have been drafted here in this Bill. Some points here are certainly not clear at all. In the first place, it is stated that quite a number of places in the Bill, and the hon. Minister, the other day, had also said here on the floor of the House that this is to be specifically an anti-terrorist force and that we had no force of this kind existing so far. That means basically this Force is being conceived of as something which is basically different from the CRP or BSF and that type of para-military forces which are already existing. Now, in the Statement of Objects and Reasons as well as in the Preamble there is mention not only about the need of combating terrorism and terrorist activity, but also about protecting the States against internal disturbance. I would like to have some clarification about it. It is extending it very far and much wider connotation being given to it. Internal disturbance can mean so many things. It can mean communal riot. It can mean even an industrial strike by workers and employees. So, how is this to be specifically a different type of Force which is meant to concentrate on fighting against terrorist activities with which we are all concerned? Or, is it to be one of those Forces with omnibus power such as we have already got, the para-military forces? So, I would suggest that if you are really intending that this should be a new type of force which is specifically meant to fight terrorism then please delete all these references to internal disturbance. Internal disturbances are not necessarily terrorist activities. They can cover so

[Shri Indrajit Gupta]

many things. They can be stretched to a length where anything can be brought within the purview of this. The National Security Guard can be employed for that purpose. The Statement of Objects and Reasons does not matter because that does not form part of the Act when it comes. But in the Preamble at least this reference to internal disturbance should be deleted. It should be exclusively meant for fighting against terrorist activities. But that is not clear here at the moment at all. Secondly there is nothing here which suggests that the deployment of this National Security Guard requires the approval or the consent of the State Governments concerned. In the case of the paramilitary forces I believe you cannot deploy them in any State without the consent of the State Government, without the approval and without consulting those State Governments. Here in this Bill which is quite a big Bill running into 140 clauses, there is no mention anywhere of how this process of deployment is to be brought about. Does it mean—I want to know clearly—that in this case the State Governments are not to be brought into the picture at all? They are not to be consulted; their approval is not necessary; the Centre can at any time send its National Security Guard to any part of the country whether the State Government so desires or not. What is the position? Have the State Governments been consulted about this Bill? Have their opinion been sought? Nothing is stated here. So, Sir, I think that if it is a question of deploying a force without bothering about the opinions of the State Government, it is something which is new, which is being introduced here. Because, the National Security Guard is not the Army. It is neither the Police nor the army. It is some kind of a special type of new force which is being created. And you are introducing a new principle which by omission suggests that it can be deployed at any time in any part of the country without any approval or permission or consultation even with the State Governments concerned. If that is so, kindly explain the position before you ask us either to support it or not to support it. Because, this is introducing something which is radically a new depar-

ture from the practices which have been followed in the past.

At the moment as I understand the Bill, the way it is drafted, this National Security Guard can be sent anywhere at any time without consulting any State Government. And secondly it can be used for any purpose, not only fighting terrorists. In the name of quelling internal disturbance it can be used for any purpose. So, kindly make this clear and if you want to remove some of the confusion that is caused by this kind of drafting, then, at least delete that internal disturbance from the Preamble. It occurs only in the Preamble. It can be removed from that Preamble.

As far as the overriding of the States' consent is concerned, I strongly protest against this. I do not think there should be such a force at the disposal of the Centre. It assumes, it implies that the States are not interested in combating terrorism, or the States are on the side of the terrorists, or colluding with the terrorists, and therefore, you must have a force like this which can override all the State Governments. This I strongly protest against, and I think it is a dangerous kind of taking of powers by the Centre and this is not the correct position at all.

Secondly, Sir, I would like to know one or two points only. What is the record of this Force since 1984? It is stated here clearly that it was brought into being in the middle of 1984 when the Directorate General of the National Security Guard was set up and so on. I agree that up-till now it has perhaps been not a very large force, but it has been in existence. What has it been doing? What duties have been assigned to it? How is it discharging those responsibilities? We know nothing. It is no use some Member saying that he has seen some people standing about on the road dressed in black uniforms and by going near to them and reading what was written on their shoulders, he came to know that this is National Security Guard. We understood at that time from the general talk which was going on, what appeared in the press, that it is some type of a commando unit. Well, we know how specialised commando

units have been raised and trained abroad in many countries and have been used for various purposes also. They are mainly anti-terrorists, there is no doubt about it. For example, when hijacked planes have been taken away to some foreign airports, you know the cases of commandos being used from different countries in order to release those hijacked planes and to fight the terrorists who are holding on to the planes. That type of thing can be understood. Here too there is a reference in the Bill to the fact that the members of the National Security Guard may be required to do service outside India also. I do not know what it means. 'Outside India' means obviously they are not Army people, they are not sent on military service. It is all right, I am not objecting to it. If they are used really for some useful purpose, they may have to be used even outside our national border somewhere on some occasion outside India.

AN HON. MEMBER : It means Embassy.

SHRI INDRAJIT GUPTA : I do not know whether it can mean 'Embassy', it can mean something else, it can mean crossing the border and chasing terrorists or something, I do not know what it means. But what has been its record ?

Then, Sir, I take it that its duties are not duties of a general policing type at all because if it is so, then there is no need to create a new Force. It is a specialised Force and that is the only way it should differ from the CRP or the BSF or other para-military forces.

About Intelligence apparatus and all that, many Members have raised the question, I do not want to dwell on that, but I want to also know from the Minister when he replies that there are already a multiplicity of intelligence agencies. Is this National Security Guard to have a separate Intelligence apparatus of its own, adding to the general confusion, when many of the intelligence agencies are giving reports contrary to each other, which is well-known and which has landed us in

some difficulties also in the past ? Or, are they to depend on the intelligence supplied to them by some of the existing agencies ? How are they to function ? How can they fight terrorists without proper intelligence, we cannot understand. At the moment in the Punjab it seems the intelligence at the disposal of the terrorists is sometimes superior to the intelligence that the Government has. There is no doubt about it. I cannot imagine this murder of General Vaidya taking place in Poona, unless their intelligence is superior to the intelligence at the disposal of the Government authorities. It is a very disturbing thing. It may be due to the fact that there is a lot of leakage going on and what are fondly considered to be very confidential State secrets are being deliberately leaked out to the terrorists, as was done during the Mand Operation. The Chief Minister himself told us that the whole Mand Operation was revealed and divulged to the terrorists before it started. So, please be serious when you are asking Parliament to vote for the creation of a special anti-terrorist specialised force, the main question as to whether it will be successful or not depends on the intelligence at its disposal. Without that it cannot do anything. Is it to have its own system ? Is it to depend on other systems ? What is it to do ? You may not tell us because you may say these are confidential matters. But we have a right to know about these things in Parliament.

Then, Sir, many Members have spoken about recruitment policy. None of the 140 Clauses speaks anything about how recruitment and enlistment in this force will be done. Will there be any special qualifications for these people or any minimum qualifications since they are called upon to perform a very crucial duty ? They have to be given special training as commandos but will there be any minimum qualifications for enlisting them in this force ? Many members have also spoken the other day from that side—Member from Manipur and Member from Arunachal Pradesh—about the danger of excesses being committed by these forces. They referred even to the Army having

[Shri Indrajit Gupta]

committed some excesses in Nagaland and other places.

Sir, their purpose is to fight terrorism and not to behave in a way which will breed more terrorism. We have to be very careful about it. An important part of their training should be that they are not to behave in a way which will create more soil for terrorists. *(Interruptions)*

I am glad to find in Clauses 30 and 41 (a) some provision has been made for punishment of those carrying out some extortion, beating of people, mal-treatment of people and doing something which may be construed to be an insult to the religion. But they have been put in a scattered way. They do not stand out properly. Excesses against innocent persons must be avoided at all costs and that must be made punishable otherwise you will be making the situation worse. I had earlier mentioned what Central Industrial Security Force had done at Bokaro on 9th August. They are not a police force. They have nothing to do with law and order. They are posted outside the gate of the factory. They carried out very brutal lathi charge injuring 150 workers with the result that some of them had to be brought to Delhi for hospitalisation of skull and eye injuries. Therefore, I am saying that the possibility of excesses being committed must be guarded against. I think in Punjab some people are being rounded up. They may be innocent. So we have to be careful otherwise we may breed more terrorists.

Lastly a word about the motivation of the force itself. Shri Mushran mentioned as to how they are to be given motivation. When you are constituting a force you have to see how they are to be trained but I would say in spite of everything a jawan of this National Security Guard force should be provided with some legal and constitutional channel by which they can represent to their superior officers any legitimate grievances that they may have. If there is no channel of any kind then we may one day have troubles as we had

with CRPF some years ago. They cannot form trade unions but they should be provided with some constitutional channel by which they can represent any legitimate grievance that they have to their superior officers. It is very important and I hope the Minister will clarify all these points before we give our verdict on this Bill.

SHRI T. BASHEER (Chirayinkil) :
Mr. Speaker, Sir, I rise to support this Bill.

12.00 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

This Bill is to constitute and regulate an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances.

Terrorism has become a growing menace for our country. Our country cherishes high values and high traditions; Gandhiji taught us ahimsa; his weapon was non-violence and his approach was tolerance. But in that land of Gandhiji, it is a paradox of history that a lot of blood has been shed. Terrorism every now and then raises its ugly head and it has become a disease in our body-politic. We in this House have many times discussed this problem. And as many hon. friends have said, even though we have army, so many para-military forces, this Bill has been brought to constitute one more force, National Security Guard, to combat terrorism in this country.

Terrorism is not a simple law and order problem. We have to tackle it both administratively and also politically. This Bill is to provide administrative measures, and I think, this Bill will attract the support from all sections of the House without any political considerations. Along with these administrative measures, we should have a political approach also to tackle this problem. We have discussed in this House the communal problem in this country and agreed that the political parties would think about it and formulate a political programme on the consensus

we have reached here to face the communal problem in the country. In the same way we have to tackle this problem also politically.

In this connection, I would like to point out that it is a matter of great concern that there is a large scale clandestine manufacture of illicit weapons in this country. Those persons who manufacture illicit arms and smuggle such arms should also be brought under the purview of this Bill. I had gone through the Bill and Section 15 of the Bill defines terrorists. I think that definition does not cover the clandestine manufacture of such weapons and explosives in different parts of our country. We have seen that the anti-terrorist drives in Punjab revealed that a number of illicit arms factories exist in that State. I have seen some news items in the papers that a few days back even in Delhi also, police unearthed so many illicit arms factories. So, this is causing great concern in the country. I think that this manufacture and supply of illicit arms is a danger to the security of our country and it creates fear in the minds of the people and it affects the peace of the nation.

I would like to make yet another point. Many colleagues here said about the behaviour of our para-military organisations. There have been complaints many times that there have been incidences where these para-military organisations played a role in communal disturbances. I would like to submit that there can be no protection if the fence starts eating the crop. As many hon. members have rightly put it, the behaviour of these men is most important. And for that, training is most important. I do not know what type of training Government are going to give to these people. Through proper training, Government must create consciousness in the minds of these men about their approach and they must be made aware that they are carrying a very important job and that they must do it in a befitting manner. I hope that the Government will have this important aspect in mind when training is given to this force.

With these words, I support the Bill

and I think that this Bill will help to combat terrorism in our country, which has become a very terrible menace to our lives.

THE MINISTER OF STATE IN THE DEPARTMENT OF INTERNAL SECURITY (SHRI ARUN NEHRU) : Sir, I would like to briefly intervene. First, I would like to extend our gratitude to all the members who have participated in this debate. One of the very encouraging signs is that almost every one supported this Bill and made very valid suggestions for our consideration.

Sir, it is very heartening that individual members have suggested that we should pay proper care and attention in terms of pay structure for the N.S.G., welfare measures to be taken, insurance, weaponry, housing and in fact, the whole personal side of the Force. We will certainly consider these suggestions and we will ensure that the N.S.G. does not lack in terms of personal comfort to any of its staff.

Some members have raised the question about the composition of the Force in terms of recruitment and appointment.

I would like to very briefly mention that the NSG today is taking people from the army, from the para military force. There are very high standards of selection and all of them are being subjected to very intensive treatment. My whole purpose of this intervention was to briefly remark on the training facilities which we have for the NSGs. As we have mentioned earlier, this is a specialised commando force. I would try to reply to some of the points raised by Mr. Ata-ur Rehman, very valid points. Now, in regard to training aspects, we have training camps which were held and where not only NSG people are now being trained but we are also extending training facilities to the States. We have invited various people from the police force from the States to come and take training in commando operations which we are conducting for the NSG personnel. Now, it is not possible for me to indicate what

[Shri Arun Nehru]

various types of trainings we are giving, but, certainly, for things which are connected with terrorists activities people are being trained. In fact, in the next Consultative Committee meeting for the Home Ministry, we would like the members to come with us to Manesar where we have these training facilities and to see them in detail. As regards training, it is very difficult to describe what are the different courses we have got. But all activities related to terrorism are being covered. We have got upto date training courses, and we are ensuring that irrespective of from which force a man is coming through, he goes through this course in total detail.

Many members have also raised a point as to why we want to have a separate force and why is it that CRPF, BSF or CISF cannot do that function. Basically, as we have mentioned, this is a very specialised force, and I think it needs a totally different ethos; it needs different culture; I mean it is not easy for a professional force which is doing a particular function to suddenly switch over and go to a specialised function and start performing it. Now, the NSG, we have tried to keep it as an elite force. We have set up stringent regulations for recruitment and we have tried to get best people from the army, from the BSF and from the CRPF; and then we are orienting them totally to the concept on which this force is based; it is totally a different concept; it is not normally policing activities. Members have also raised points in regard to intelligence agencies. Now, the NSG has no intention of being an intelligence agency. Otherwise, you will find the intelligence agency will be five times more than the strike force. Any force which is specialised force has to depend upon intelligence which comes from the field. Now, we do not have, as the hon. members said, multiplicity of intelligence agencies. We have an intelligence bureau. Then we have something for our external thing which is a separate thing. But then each individual State has its own intelligence set up. Now, we are not running the State intelligence set up. So, if the NSG is asked by any State or

if it is required to operate in any State, then, certainly, both Centre and the State intelligence agencies will help.

I would like to mention in passing that as far as Punjab is concerned, I think the intelligence agencies both in the Centre and the State level have done a very good job. If they have not done it, then they would not have arrested so many people. After all, the police men and the paramilitary forces, which are currently engaged in tackling terrorist activities in Punjab are not operating in isolation. So, the NSG will rely on the intelligence which is available both from the Centre and the State Governments, and we have no plan, whatsoever, of having intelligence agencies within the NSG. This only results in duplication. I don't think it serves any useful purpose.

Mr. Indrajit Gupta has raised a point on internal disturbances. I would like to clarify that, when we say internal disturbances, we mean internal disturbances caused by terrorists.

SHRI INDRAJIT GUPTA (Basirhat) : I am not happy with it.

SHRI ARUN NEHRU : I know, you will not be very happy with that answer.

SHRI INDRAJIT GUPTA : I have used the general expression not specific at all.

SHRI ARUN NEHRU : In fact, in regard to the process of employment, we have already said that it will be deployed like any other armed force, within the constitutional framework.

SHRI INDRAJIT GUPTA : What does that mean ?

SHRI ARUN NEHRU : We will start clarifying all these points to you.

It has also been mentioned about—Mr. Rehman mentioned it—the anti-hijacking operations and the force is totally

equipped in that direction. We are going in for various other sophisticated activities, but I would not like to discuss them at this stage because it is all still under planning. But, certainly, for anti-hijacking operations we have a fully trained force to deal with the situation.

It has also been mentioned as to what the NSG has been doing for the past one and a half years. I just like to briefly mention that in 1984 the decision was taken to raise the Force and basically a Planning Cell was set up at that time. In June 1985 the process of raising started. It is still in the formative stages. But we have a reasonable number of people in operation. You will remember that the Punjab Chief Minister had asked for our assistance, and we helped them, and I think that they did good work. As the House is aware of it, I do not have to repeat.

In regard to the mode of recruitment, I would just like to mention that all the matters which have been raised by the hon. Members we will incorporate in the NSG rules which are being framed. Some very good suggestions have been made and we will certainly go into them.

I would like to mention once again that as far as the NSG is concerned, we have conceived it as an elite commando force to deal with the terrorist operations and it is not only a question of NSG being raised and expanding its operations, but we are also using the NSG to impart training to the States. We are giving them all possible assistance and this will be forming a part of the various operations of the NSG.

[Translation]

SHRI MANVENDRA SINGH (Mathura): Mr. Deputy Speaker, Sir, I support the National Security Guard Bill. This Bill will prove to be effective in providing security against the elements who, misled by foreign powers, are indulging in terrorist activities and fanning the issues of communalism, casteism, religion and division of the States.

I want to give some suggestions in this regard. My first suggestion is that the intelligence machinery should be made effective. I demand in this august House that our intelligence machinery should be made highly effective. It is not only the question of Punjab. Our intelligence machinery should be made most effective to tackle the problems that are being created in the name of casteism and religion in every district and every State of the country so that the intelligence agencies may alert the Central as well as the State administrations beforehand.

Today we find that crimes are increasing everywhere. The criminals or the terrorists are having quite sophisticated arms. It has, therefore, become necessary to equip the security agencies with the latest weapons. It has been clearly said in the Bill that the security personnel will be equipped with the latest weapons but I suggest that they should be imparted training in the latest weapons and all the tactics useful from the security point of view should be taught to them.

Stricter measures should be adopted for the protection of our national property. A few days back we had discussed a Bill containing the provision of creating a 5 kilometre security belt along our borders. It has often been observed that mostly the captured terrorist are either from Pakistan or from some other country and they are more active in inciting troubles. To check this, it is necessary that the security personnel should be quite alert and trained to protect our national property.

At the same time, our State police forces also need training. So far, our experience has been that the recruited policemen are deployed after imparting insufficient training. They should also be imparted effective training, equipped with the modern weapons, provided with the means of transport and all other facilities to increase their efficiency.

In every State, there is a general feeling that the police personnel are corrupt and we find even examples of that. I would like to quote one or two such

[Shri Manvendra Singh]

examples.

A bus was looted in my district some two years back. Our *Gram Pradhan* was also there at that time. He told me that after looting the bus, the criminals counted the money and then asked all the passengers to take back their belongings. When the *Gram Pradhan* asked them as to why they were returning the looted articles, they replied that the booty was even less than the amount to be paid to the police incharge. The police stations earmark the areas for particular criminals. They know that this much of amount can be looted from the passengers of the buses of that area. This is how the buses are looted, dacoities are committed and a part of the booty is shared by the policemen.

A similar incident recently occurred in District Mathura wherein a dispute arose between *Jatavs* and *Harijans*. A police diwan visited some Brahmin family and had meals there. He was accompanied by two constables of the *Jatav* community. When a women there asked about their caste, the diwan told that he was a *Brahmin* and the two constables were *Jatavs*, whereupon the *Jatavs* were asked to wash their utensils. This aroused passions and a big dispute arose there. A dispute on caste and communal line arose there. It all happened in my district on the 13th instant. The Home Minister and I too had visited that place. We pacified them with great difficulty. So, the caste feeling in the police personnel should also be eradicated. They should be imparted such training as to make them vigilant. The increasing greed for money in them should be checked. We come across many such examples where the police officers and SHOs take money for allowing dacoities to be committed. They indulge in such activities openly. This tendency must be checked.

Sir, now I want to put forward some suggestions. In our State, previously the District Magistrate used to make entries in the character rolls of the Superintendents of Police and other officers, but now

this system has been discontinued. Now the Superintendents of Police have been made independent and that is why incidents of thefts and dacoities are increasing. When the S.D.M. visits his area and needs the help of the police, then the SHO does not obey his orders because he is now an independent officer. So, I request the hon. Minister to restore the old system and the Superintendent of Police should be made subordinate to the District Magistrate. It will lead to coordination between the District Magistrate and the Superintendent of Police. I hope the hon. Minister will consider my suggestion and oblige by implementing it.

We have noticed that Delhi Administration works with greater efficiency whenever some incident takes place. The police arrangements were strengthened when a bomb explosion took place in a multistorey building of Delhi. But few days after that, the same old laxity was there. I did not find any police patrol when one day I was returning home at 12 O'clock during those days. So, I request that the police should always remain alert and vigilant to check such incidents. Whenever some incidents takes place in the North Avenue, many police jeeps and cars patrol the area, but all this vanishes when the situation becomes normal. I suggest that you should issue strict orders in this regard.

So far as judiciary is concerned, we have seen that they immediately grant bail to the accused. The police officers reaches the headquarters later but the accused is already there, twisting his moustache, and tinkering with the evidence and creating obstacles for the administration. There should be coordination with the judiciary so that the criminals may not get any help from them.

With these words, I support the Bill and express my thanks to you.

[English]

SHRI AJITSINH DABHI (Kaira) :
Sir, I rise to welcome this Bill. The

Statement of Objects and Reasons in the Bill says that the Bills brought to raise an armed force to protect the States against internal disturbance. Sir, this reminds me of Article 352 of our Constitution as it stood before 1979. In 1979 the Janata Party Government headed by Shri Morarji Desai amended the Constitution and deleted the word 'Internal Disturbance' from Article 352. We were then sitting in the Opposition. On 21st August, 1978, in my speech before this august House I had pleaded with the ruling Janata not to delete the Word 'Internal Disturbance' from Article 352 and not to transgress the wisdom, the sagacity and the foresightedness of the founding fathers of our Constitution, who thought it wise to insert these words in Article 352. Experience so far has shown that internal disturbance, when it assumes the form of terrorism, can overthrow a Government established by law. Sir, in 1973-74, in Gujarat, the so-called. Nav Nirman agitation of students turned violent with the entry of Jan Sangh, Socialists and the CPM in the agitation. As the police could not control the violence army had to be called in. Banks, Government Offices and Telephone Exchanges and public and private property worth crores of rupees were destroyed. Ministers were physically assaulted. The elected members of the Legislative Assembly and their families were attacked and their property was set fire to and destroyed. The MLAs were terrorised to resign from the Legislative Assembly. Such a situation was created that the State Government had to resign and the Central Government was forced to dissolve the Legislative Assembly in Gujarat. In 1981 in the name of ethnic entity of the Assamese people, the Assam agitationists had destroyed property, both private and public, worth crores of rupees, killed innocent people and government officers, thus facing the State Government to resign, and the dissolution of the legislative Assembly.

The weapon of internal disturbance, though it may not be termed armed rebellion, can be utilised so effectively as to overthrow a Government by law established and to demolish democratic institutions of the country.

Internal disturbance in the State of

Punjab has assumed the form of terrorism and this terrorism has crossed the border of Punjab State and has taken the choicest toll of our late great Prime Minister Shrimati Indira Gandhi in Delhi and that of Chief of the Army Staff, A S. Vaidya in Maharashtra in Poone. Internal disturbance whether started in the name of Nav Nirman or Ethnic entity or in the name of Khalistan or Gorkhaland or Jharkhand, is bound to encourage secessionist tendencies and it is one which is likely to break the country into pieces. The founding-fathers of our Constitution had rightly envisaged a situation like the one in Gujarat in 1973-74 or Assam in 1981 or the one we are facing in Punjab at present by which, internal disturbance, though it may not be termed armed rebellion, can overthrow a State Government established by law and can ultimately jeopardise the unity and integrity and the hard-won freedom of our country. The Central Government must have the power to declare Emergency in a State or Union Territory and thus to keep the terrorist activity restricted to that State.

Sir, the Janata Party and other parties the Jan Sangh, the BJP, the Congress, the Lok Dal and the Akali Dal which were the constituents of Janata Party in 1979, has done disservice to the cause of unity and integrity of the country by deleting the words 'internal disturbance' from Article 352 of the Constitution. The original Article 352 empowered the Central Government to declare Emergency not only in a State or a Union Territory, but also in the whole nation, and I think the Janata Party Government ought to have retained at least the power in the Centre to declare Emergency in a State or Union Territory. Therefore, our Government should think in this direction of amending Article 352 so as to give power to declare Emergency in a State or Union Territory or any part thereof with a view to effectively combating the terrorists activity.

Last year in Punjab we lifted the President's Rule. We had elections. We had constituted the Legislative Assembly and today we have a State Government elected by the people there. We hope

[Shri Ajit Sinh Dabhi]

that the State Governments will be allowed to work and democracy will be allowed to function. But, Sir, that is not to be. For quite some time past terrorism has assumed menacing proportions with a view to break our country. After the assassination of our late Prime Minister Shrimati Indira Gandhi, an elite force of commandos has been raised for the security and safety of eminent persons and special training is being given to them. But it is of no avail. Sir, Makens, Arjun Das, Sant Longowal, D.C. Khullar and lastly General Vaidya have all been shot down and murdered by the terrorists. Sir, the disgraceful part of it is that they were killed by giving previous warning, anonymous or otherwise. Therefore, the situation is grim and calls for radical steps.

Sir, terrorism is a long drawn out war and not a single battle. Therefore, the creation of National Security Guard envisaged by this Bill is most welcome. But, Sir, retired Army or police jawans will not do, nor is the commando training itself enough. The persons employed in the National Security Guard need to be intelligent, vigorous and alert at all times as the men of CIA in America are. Sir, strictly professional approach has to be inculcated in the National Security Guard recruited under this Act.

Sir, the stand taken by India on international issues first by our bold Prime Minister Shrimati Indira Gandhi, and then by our young Prime Minister Rajiv Gandhi, is not liked by the Big Powers. India has taken the leadership of the Third World countries and has become a great proponent of the NAM movement which aims to prevent exploitation of Third World countries. China, our neighbour on the North, does not like any strong country in the South-East Asia, which China considers to be its historical sphere of influence. Pakistan has not abandoned the idea of annexing Kashmir. Therefore, we are surrounded by enemies and still we are standing aright. We used to be surrounded by enemies not now, but traditionally, as our poet Iqbal has said.

*Sadyon raha hai dushman daure
jahan hamara,
Kuchh baat hai ki hasti mitthi
nahin hamari.*

This is our tradition.

In this context, I would say that this National Security Guard itself is not enough. The whole Parliament and the whole nation should rise to the occasion. And, therefore, as the famous saying of Burke goes, "Eternal vigilance is the price of liberty."

With these words, I support the Bill.

[Translation]

SHRI KALI PRASAD PANDEY (Gopalganj) : Mr Deputy Speaker, Sir, I support the Bill introduced in the House. Otherwise also I will support every Bill brought before the House for the unity and integrity of the country.

The question involved is how to get rid of the phase of terrorism through which the country is passing today. Today, every Indian is concerned about how to free ourselves from the evil of terrorism. We cannot eradicate terrorism by just concentrating on the terrorism in Punjab. Like Punjab, there is the problem of terrorism in West Champaran in Bihar also. While Shrimati Indira Gandhi resorted to operation Bluestar in Punjab, the Government of Bihar had to resort to Operation Black-Panther in West Champaran. In the same way, crimes are on the increase in Gopalganj and Gaya districts in Bihar. If you see the incidents of killings at these two places, you will come to know that there have been more murders in Bihar than in Punjab, and today Bihar is at the top in the matter of murders. I mean to say that Shrimati Indira Gandhi was assassinated not in Punjab but in Delhi. In the same way, our colleague Shri Lalit Makan was killed in Delhi and General Vaidya was assassinated at Pune. The point is that these incidents will go on increasing day by day unless we grant adequate powers to the security forces. We believe in God

and He is also witnessing all this. The headlines in the newspapers daily depict the result of our patience. We are getting evidence by capturing the terrorists to the effect that whether it is Pakistan or America, they have been making continuous efforts to disintegrate India by giving training to the terrorists of Punjab. But today Pakistan herself is facing internal strife and perforce she is seeking the help of Army to combat that.

So far as the States are concerned, Shri Manvendra Singh has rightly said that we talk a lot in the House about internal security but there are no buildings for the rural police stations. The police want to apprehend the criminals but no jeeps are available with them. I do not want to say much so far as judiciary is considered, but even today we find that the police officers arrest the notorious criminals by risking their lives, but what happens later on is that they go scot free after a few days. So, terrorism will go on increasing unless some coordination between the Home Ministry and the States is established. As a result of secessionist demand in Punjab, somewhere in the country there is the demand for Gorkhaland and in Bihar there is the *Mukhti Morcha* or demands for Jharkhand and Kalehan State are being raised. We should never allow such demands to be raised by anybody. The terrorism has its beginning somewhere and we should try our best to nip the evil in the bud.

With these words, I support the Bill and conclude.

SHRI MANOJ PANDEY (Bettiah) : Mr. Deputy Speaker, Sir, I support the National Security Guard Bill, 1986.

The issue of the deserters is a very important issue and this Bill provides for stringent punishment to such persons. You might have heard that after the Operation Bluestar some deserters from Ranchi cantonment of Bihar, from where I come, wanted to go to Punjab. This was a small incident which I want to narrate. When they reached near Patna, they hid in a village as the police was

chasing them and they were also carrying arms and ammunition of the Army, like self-loading rifles, light machine guns and hand grenades with them. As they were hiding in a village of Bihar Sharif, near Patna, their self-loading rifles, light machines guns and hand grenades were bought by a gang of the dacoits of another village and were used in a dacoity. Mr. Deputy Speaker, Sir, you know that such rifles have a very long range. The police personnel had to face many difficulties and a number of policemen had to sacrifice their lives in order to recover those rifles. So, it is very unfortunate to deal with the deserters with a humanitarian approach. This type of demand in the present perspective is not proper. A number of good provisions have been made in this Bill about the deserters and they are in keeping with the present circumstances. I welcome them. It will be totally wrong to suggest that those who are deserters and who ran away from their cantonments with the arms and ammunition should be dealt with a humanitarian approach. I want to say it very clearly that, whether it is our Government or any non-congress Government, if they take a humanitarian view in the case of the deserters, then it is very unfortunate. The humanitarian approach towards the deserter can prove to be very dangerous. Today, I find that the deserters are being resettled at many places; they are being provided with houses at cheap rates and also cultivable lands. These concessions are being given to such persons who have shown dereliction of their duty in the name of religion. What justification can be there in adopting a humanitarian approach towards them? Suppose, such persons are deployed on the borders and they are asked to fight. But if they run away in the name of religion and if it is said that we should adopt a humanitarian approach towards them, it will be an unfortunate thing. The Government of Punjab is of the opinion that such persons should be treated in a humane manner, which is quite unfortunate. To my mind, the resettlement of these deserters should be stopped and action should be taken against them according to this Bill. Such legislations should be adopted and such persons should not be spared who abandon their duties in the

[Shri Manoj Pandey]

name of religion. This is a question of the nation. They are recruited in the Army, National Security Guard and other forces on preferential basis. And when the time comes, they run away abandoning their duties in the name of religion and if some of our colleagues sitting over here say that an humanitarian approach should be adopted towards them, it is not good. Sir, humanitarian approach adopted where the change of heart is possible. We also believe in the change of heart but can we expect it from those who even do not discharge their duties? The discharging of duty was a must for them.

Sir Madhav Reddi suggested that such persons should be kept separately in the jails. I want to ask him as to why the terrorists should be kept separately in the jails? He also said that there were hardened criminals in the jails and if the terrorists were also kept with them then they would also become hardened criminals. But the question before us is that can there be greater hardened criminals than the terrorists? To think about such persons in such a way is highly improper. I say that such terrorists should not be given any relaxation. Those who want to give them relaxations will have to tell what approach they want to have towards them. The humanitarian approach cannot be adopted in their cases.

I want to know regarding this Bill whether such forces would be used at the time of natural calamities? Mr. Deputy Speaker, Sir, we have floods and droughts as common calamities. Now-a-days, we are facing devastating floods in Andhra Pradesh. Will such forces be deployed during such calamities and will the relief work be done by them?

I want to tell Shri Madhav Reddi who says that if the terrorists are kept in the jails they will become hardened criminals, that the persons who went to jails before 1977 and came out, some of them were my colleagues. Did they also become hardened criminals? You should think over it.

There are proper arrangements in the jails. The criminals go to the jails for the atonement of their misdeeds. So, they have to experience sufferings. If the jails are air-conditioned and provided with all other facilities then what will be the importance of the jails? So, you should not think in this manner about the terrorists. For God's sake, do not think like this.

SHRI GIRDHARI LAL VYAS (Bhilwara) : Mr. Deputy Speaker, Sir, I support the National Security Guard Bill 1986. This Bill has been brought to check the increasing terrorism in the country. Through this Bill, it is proposed to streamline the functioning of the National Security Guard which was created in 1984 and form rules and regulations for the personnel working in it.

Mr. Deputy Speaker, Sir, what have been the achievements of the National Security Guard and which terrorists have been apprehended since its inception in 1984 in view of which you have brought this Bill to strengthen it, because the process of apprehending the terrorists had started only when the Director General of Police Shri Ribeiro took charge in Punjab. Day by day, the terrorism is on the increase. Incidents of beating, killing and shooting are increasing. The terrorists indulge in smuggling also on a large scale and that is why the terrorism is increasing there. The terrorists in Punjab are getting protection due to the smugglers. Cocaine, Opium, Ganja and Charas are smuggled into the country through the borders of Rajasthan and Punjab which has been a reason for the increase in terrorism in the Punjab. Mr. Deputy Speaker, Sir, the hon. Minister has not made any provision regarding this which is the cause of increased terrorism. Terrorists are getting crores of rupees through the smuggled goods. Even they are getting arms and ammunition through this process, but the hon. Minister has not made any provision to the effect that these guards will guard against these activities and they will be sent to the States where smuggling is being carried on all the time. The smugglers live in the border areas of Punjab, Rajasthan and Gujarat. Their houses are full

of gold, silver, narcotics and other smuggled goods. These very people help the terrorists by illegally bringing goods worth crores of rupees. They also have made the police and B.S.F. and other forces corrupt, but there is no provision in the Bill in this regard. It is essential to streamline the arrangements for the proper functioning of the entire system.

In regard to our Intelligence machinery, our Minister for Internal Security has stated just now that there is no need for a different system and that whatever arrangements the Central Government and the Intelligence Bureau have made in this regard are adequate. But I do not agree to it. I want to tell the hon. Minister that these systems are not efficient enough and there is a need to streamline them. I would like to give the example of RAW. Recruitments in this organisation were made on basis of the recommendations of very important people of the country, and it was expected that intelligence information will be supplied by them, but they have failed to give any such information and hence your funds are not being used properly. In fact, they fully assist the administration in becoming corrupt and inefficient. You should organise the intelligence agency in such a way that you may get information in time whereby you could control the situation. Unless you do so, the system will not work properly. So many important people were attacked, murders were committed, but you could not receive any information from any intelligence agency whereby you could take some steps to curb this menace. It is, therefore, essential to streamline the intelligence machinery so that the entire system could function properly.

Along with this, I would like to make a submission regarding discipline. It happens in every force that if a senior officer behaves badly with his junior and calls him names, and the junior also retaliates then there is provision for fine and other disciplinary action to be taken against the junior official, but the senior officer goes scot free. The indiscipline shown by the junior officer is taken very seriously, and he is sentenced to three to

seven years' imprisonment. So severe punishment is rarely given even in criminal cases. Very strong punishments are awarded in such small cases of indiscipline. Moreover, many people out of jealousy make false allegations against their juniors and in this manner, they make them receive punishment. It is important to pay attention to this aspect. Whatever system you evolve for their benefit, it must be ensured that no one gets wrongly punished and that the provisions of this Bill are not misused. It is important to look into this matter. Many of our hon. friends have said that forces should be sent without consulting the State concerned. This force was specially created for such purposes and so the need to take the permission of the State does not arise. These forces have to be sent wherever the terrorists are active. This law has been enacted to end terrorism completely. So, this must be fully implemented without showing any laxity. With these words, I conclude.

[English]

MR. DEPUTY SPEAKER : The House will now adjourn for the lunch. We will reassemble at 2.00 P.M. The Minister will reply at 2.00 P.M.

13.02 hrs.

The Lok Sabha then adjourned for lunch till Fourteen of the Clock.

The House reassembled after lunch at five minutes past fourteen of the Clock.

[MR. DEPUTY SPEAKER in the Chair]

NATIONAL SECURITY GUARD BILL—CONTD.

[Translation]

MR. KEYUR BHUSHAN (Raipur) : Mr. Deputy Speaker, Sir, the National Security Guard Bill is being discussed in

[Mr. Keyur Bhushan]

the House at present. I am happy that all the political parties are supporting this Bill unanimously. In fact, like the entire nation, this House is also vigilant about national security. This Bill has been brought in view of the internal situation and also for combating terrorism. It is very clear that certain external powers want to create a state of confusion in the country. Our armed forces are fully prepared and capable of combating the state of militarization being created all around us. But inside the country efforts are being made to spread anarchical conditions in different parts and the terrorism in one manifestation of such efforts. This Bill has been brought to combat this situation.

As has been clarified in the Bill itself, the word terrorism does not imply ordinary crimes like murder, loot or thefts or smuggling. In fact, the Bill has totally different objectives. Through this Bill, a National Security Guard force will be created to counter the terrorist tendencies. While giving the details, it was mentioned that terrorism would imply terrorizing the administration or the people in general or any section of the people in particular, or the efforts at separating a particular group of people. Our spirit of nationalism is directly connected with it. The aims of any external aggression and the terrorism are almost similar, which is to disintegrate the country in different ways, whether it is by inciting communal riots or by attacking some VIPs or in any other way. We have noticed that even those persons have been the target of the terrorists who were neither associated with any particular religion, nor party nor caste. All types of persons have been attacked by them. They attacked even those great leaders who were endeavouring to keep the country united and strong to make it progress. So, it becomes necessary that these terrorists should be treated as traitors and not as simple criminals. The reasons being, as we are witnessing, that some of these terrorists are compared with revolutionaries and are honoured. We should remember that there is a great difference between these terrorists and the revolutionaries. The revolutionaries sacri-

ficed their lives for the freedom of the country. They tried to attain freedom whether through violence or non-violence. These terrorists of today are totally different from the revolutionaries. The revolutionaries, whatever path they took, sacrificed their lives for the protection and development of the nation whether it was Subhash Chandra Bose or Shahid Bhagat Singh or Mahatma Gandhi, they all were committed to struggle against the imperialism. They always challenged the imperialists and they had a common objective so far as national unity was considered. They all had similar concept about communal unity and equality of all religions and on this basis there might be differences regarding adopting the path of violence or non-violence but they all were one in struggling with the imperialists and in sacrificing their lives for the unity of the country. Our parties are also in the same situation today. Though our parties may be different and our ideologies may differ but we stand together to face the difficulties facing the country. This House also reiterates this fact as Members from all parties have welcomed this National Security Guard Bill.

Mr. Deputy Speaker, Sir, the most important and fundamental issue regarding this National Security Guard Bill is the procedure of selection. There should be no discrimination while selecting personnel for this force. All the classes of the society should be given representation in this force. The procedure of selection should be such as to induct people from all the classes. Sir, the second thing is that the personnel of this force, whether they are constables or officers, should have nationalistic feelings. It is very necessary to keep in view all these points at the time of selection and recruitment. The selection should be on the same lines as done in the Armed Forces. The recruitment for the National Security Guard should also be done at different places in the country. The main issue involved in the organisation of this force is the feeling of nationalism in its personnel. The third thing that I want to say is about the salaries. Their salaries should be comparatively better than those given to the Armed Forces and the police forces. You intend to induct the retired military

personnel into this force. In this connection I request that these retired personnel should be promoted while inducting them into this force and they should be provided with the maximum facilities. This will make this force very effective and successful.

Mr. Deputy Speaker, Sir, a group of C.I.D. is being provided in this force. Today everybody knows about the condition of our intelligence agencies. Had our Intelligence Department been efficient, then Shrimati Indira Gandhi, General Vaidya and Sant Longowal would not have been assassinated. All these killings expose the weaknessess of our Intelligence Department. So, I request you to make the Intelligence Department capable of facing all those difficulties.

SHRI HARISH RAWAT (Almora) : Mr. Deputy Speaker, Sir, so far as the objective of this Bill is concerned, it is undoubtedly praiseworthy. But, through you, I want to draw the attention of hon. Minister to the fact that this force should not become a mixture of persons from different forces, like this Bill whose provisions have been borrowed from the Acts governing the different forces. It is necessary to avoid such a mixture otherwise it will fail in achieving its objectives.

This Bill nowhere states the procedure of recruitment. You should have acquired the power for recruitment through this Bill, but there is no provision about it in the Bill. How would you frame the rules and the procedures if the powers are not acquired through this Bill ?

You are going to create an important, specialised trained force through this highly important Bill but what provisions have been made for their training ? Your colleague, Shri Arun Nehru, made some comments about it while intervening, but they could not make the picture clear. You have a training institute for imparting training to all the forces but all should not be given the same kind of training. There should be some special and different training for this force which is being created with a special objective.

You have kept in view an important objective and about Rs. 386 lacs have been provided for it. Not only I but other Members too have doubts about whether you will be able to perform such a big task with so small an amount. This force should be fully trained and well equipped.

This force should be trained like the Air Force pilots who are trained to attack as well as protect at the same time, so that they may act and react according to the circumstances. Persons capable of reacting in the same way should be recruited in this force.

At present, personnel from other forces are being recruited in this force. I do not doubt that you are commissioning efficient persons, but I request that only educated and high calibre persons should be inducted into this force. You have not mentioned in the Bill the minimum age for recruitment. You are going to develop it as a force of the young people which should remain as such. The age of retirement should also be laid down. You should also make clear your rehabilitation plans for the retired personnel of this force.

I want to say one more thing that attention should be paid to the emoluments and other facilities as the job in this force involves hard work, enormous risk of life and strict discipline. They should have better salary, facilities and service conditions as compared to the other forces.

My last suggestion to the hon. Minister is that only the top brass, i.e. the high ranking officers be inducted into this force. The officers near the retirement age should not be inducted because in the formative years of a force unless the high ranking officials have a tenure of more than 4 or 5 years, the force cannot be developed in the required manner for attaining the set objectives. If the officers going to retire within a year or so are commissioned then they will have the tendency to just complete their tenure without making much contribution.

[Shri Harish Rawat]

I hope that the hon. Minister will certainly clarify these points and at the same time implement my suggestions regarding emoluments and facilities because it will be injustice if they are not provided with facilities in accordance with the expectations that we have from them.

[English]

THE MINISTER OF STATE IN THE DEPARTMENT OF STATES (SHRI GHULAM NABI AZAD): I am grateful to those hon. Members who have participated in the debate on the National Security Guard Bill, 1986. I am very happy to say that almost all the hon. Members have supported this Bill wholeheartedly. They have not only supported this Bill but also put forward certain welcome and constructive suggestions for the Constitutions and working of this Guard. I am particularly grateful to those hon. Members, who have shown their appreciation of the dangers to which the members of the National Security Guard would be exposed.

It is a fact that National Security Guard will be exposed and is also expected by the people and the Government to face serious odds under different conditions which they might not be used to and they might have to face the weapons which are not local made. That is why, the duties and responsibilities of this Force are much more onerous than that of any other Forces which are existing at the moment.

The basic point which has been mentioned by most of the hon. Members is regarding the absence of a provision of the mode of recruitment. It has also been pointed out that the Bill is silent about the composition of the force, the mode or source of recruitment and appointment in the force and other conditions of service. It was suggested that a provision to include all these matters should be made in clause 4 of the Bill. In this regard, I would like to point out that the Bill, which is sanctioning the raising of the

force, mainly deals with the basic structure of the force. As such, it does not go into the administrative and procedural details. These are the aspects which have to be kept flexible. For example, at the moment, we are not making direct recruitment, but maybe, after some time, we may have to make it. So, according to the conditions and necessities, we have to keep it a little flexible. If we bring those things in the Act, then it may be difficult to amend the Act. I would invite the attention of the House to sub clause 2 of clause 4 wherein it has been provided that—"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." Here 'prescribed' means prescribed by rules. I would draw the attention of my friend, Mr. Madhav Reddy, that this indicates that the constitution of the force which includes the mode, criteria, source of recruitment and appointment, composition of the force, conditions of service of the members of the force, etc. shall be such as would be prescribed in the rules which shall be made by the Government in exercise of the rule making power vested in it under clause 139.

Syed Shahabuddin and some other hon. Members wanted to know as to why this new force has been evolved or created. This is a simple thing. I think, the other day, I mentioned this point that none of the para-military forces that we have, is trained to deal with terrorists. We are making use of CRPF at the moment in different parts of the country, particularly in Punjab, but the CRPF is not specially trained to combat terrorists. That is why, it was felt necessary that we should have a particular, a specially trained force which can be used against the terrorists.

The BSF and the ITBP, as most of you know, are meant for border protection and the CISF is meant for watch and ward duty of industrial installations. CRP is the only force meant for dealing with the ordinary law and order problems. As we know, the terrorists are trained in

modern combating practices and 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. The personnel of the force, as my hon. colleague Mr. Nehru has mentioned, will be given intensive commando training to effectively combat the terrorists' activities and they will also be supplied the latest modern equipments.

There was a mention about the induction personnel as to what should be the mode of employment into this force. There were almost unanimous suggestions of the hon. Members that the men of this force should be drawn from the army. I would like to mention that about 90 per cent or so of this force will be constituted from army, BSF, CRPF and other armed forces depending upon availability of manpower. So, very less number of persons will be taken from the police.

I would also like to inform the House that we are already inducting officers and men from these forces to keep the profile of this force as young as possible and also to give sufficient teeth to the striking capability of this force. Men of younger age group only are selected for this force. I think Mr. Rawat has just now mentioned about the age group. One thing has been kept in mind that the people of very very young age will be selected, say, those in mid-thirties only will be inducted as far as the personnel are concerned. As regards high-ranking officers, I think he again has mentioned that the high officers also should not be at the verge of retirement. That will be taken care of.

As I have mentioned, the striking force will be in mid-thirties and the officers in the higher rank will also be of comparatively younger age as compared to other central forces.

On induction into this force, the officers and the men are to go through sustained reorientation and intensive commando training as well as weapon training.

There has been a mention here—almost 60 per cent of the hon. Members have mentioned—about a separate intelligence wing for this force. In this regard it is submitted that the creation of intelligence network for collecting intelligence about the activities of terrorists in all parts of the country will have very vast ramifications which would require a colossal manpower which may outnumber even the striking force of NSG. Even otherwise, multiplicity of intelligence agencies is not conducive to efficiency and can tend to be sometimes counter-productive. We, therefore, propose only to have a small nucleus of intelligence wing in the National Security Guard to coordinate and liaise with other intelligence agencies of the country to keep the force abreast with up-to-date information and other activities and plans of terrorists. I share the anxiety shown by hon. Members about this increasing terrorism particularly in Punjab. Sir, you are aware of the fact that organised terrorism has been introduced in the border State of Punjab and this conspiracy has a global ramification. We also know that the forces of violence and destabilisation are not only abetted but also aided by alien forces who are hostile to India. This is one of the reasons to combat these hostile forces which has necessitated the Home Ministry to come forward with this Bill so that we can fight out the terrorists with much more strength and with much more vigour.

I would also like to assure the House about the question of improvement in the pay structure, insurance cover and welfare amenities. I think Mr. Rawat has just now mentioned about this. We have given some facilities, some deputation allowance, free ration etc. Some special allowance will be paid to this Force. As he rightly mentioned, since the work is much more arduous than any other force, all these things will be taken care of.

Our respected Member of the House Shri Indrajit Gupta had raised some questions and I think most of his questions were replied by my colleague. Regarding the internal disturbance he has already mentioned: Internal disturbance only caused by the terrorist activities are co-

[Shri Ghulam Nabi Azad]

vered by the Preamble. There was one question which was raised by hon. Shri Indrajit Gupta.

SHRI INDRAJIT GUPTA (Basirhat): May I take it as assurance that this Force will not be used in the name of internal disturbances which are not connected in any way with terrorism?

SHRI GHULAM NABI AZAD : Sure. Also, we have already mentioned in the Preamble itself that it is solely, 100% associated with terrorism only. There was a mention by Shri Madhav Reddy ji and by hon. friend Shri Indrajit Gupta whether the consent has been taken of the State Governments while constituting this Force.

SHRI INDRAJIT GUPTA : Whether it will be taken before deploying them?

SHRI GHULAM NABI AZAD : I would like to mention that it shall be deployed like any other armed force, within the existing constitutional framework. So, no provision for this is needed in the Act. It will be at par like any other thing. So there is no question of taking consent. It is not something different than other para military forces which we have been using from time to time. Gupta ji also mentioned about danger of excesses being committed by this Force. I would like to assure the hon. Member and the House that they will act with discretion. If any person is found to have over-stepped his duty, he shall be severely dealt with under this Act in which specific offences have been provided for the purpose. About past performance of NSG also my colleague has mentioned. Regarding Intelligence Wing also he has made a mention. About method of recruitment also he has mentioned. About grievances also he has mentioned. My friend Mr. Ata-ur Rahman raised some points and Mr. Arun Nehru has already replied to them. Then Mr. Manoj Pandey had asked whether it will be used for helping in the natural calamities like other armed forces, NSG may lend a helping hand in natural calamities.

SHRI INDRAJIT GUPTA : Provided the natural calamity is caused by the terrorists.

MR. DEPUTY SPEAKER : Nature itself is terrorism?

SHRI GHULAM NABI AZAD : Mr. Girdhari Lal Vyas has mentioned that attention should be given to anti-smuggling measures because terrorists flourish with the aid of smugglers. Sir, this anti-smuggling action is receiving due attention of the Government and it is being dealt with by BSF, not by NSG and CRPF.

There are some other hon. Members who raised some questions. Again, I would like to mention Madhav Reddiji's points which he had raised. I have already replied to your two questions. I think you had mentioned that there should be a provision for administering the oath or affirmation to recruits etc. I explained to you various conditions of services such as abrogation of Article 33 of the Constitution in their case etc. You have mentioned that this is a big omission. But I would like to mention that it is true that the provision on these lines exists in the Army Act, but it is not provided in the BSF Act, and we have not copied the Army Act in toto, but administering of oath or explaining the conditions of service of a person before his appointment or all procedural matters which are stated earlier shall be taken due care of in NSG rules.

SHRI C. MADHAV REDDI (Adilabad) : About the title of clause 15, I said the title itself is defective of clause 15.

SHRI GHULAM NABI AZAD : You have mentioned that the title of clause 15 is defective. It says 'offences in relation to the terrorists etc.' This Bill has nothing to do with the terrorists as we have already mentioned, and they can be tried under the Indian Penal Code by the civil courts. The title gives the impression that this offence is meant to deal with terrorists who commit crimes. In reply to this I would like to refer to another section, Section 34 of the Army Act and Section 14 of the BSF Act. The titles of these

Sections read as 'Offences in relation to the enemy and punishable with death'. The only difference between these titles and the title of clause 15 of the present Bill is that the word 'enemy' mentioned in the Army Act and BSF Act has been replaced by the word 'terrorists'. So, we have replaced 'enemy' by the word 'terrorists'.

SHRI C. MADHAV REDDI : This has to be amended. The reading of the title shows that it has nothing to do with the body of the clause. It has no relation to that. We are dealing with the offences committed by the personnel of this Force, we are not dealing with the offences committed by the terrorists.

SHRI GHULAM NABI AZAD : We are only dealing with the offences committed by the Force Members.

SHRI C. MADHAV REDDI : But then it does not say so.

SHRI GHULAM NABI AZAD : I think it says so.

Sir, Mr. Bajju Ban Riyan has also mentioned that the Force should not be barred from taking part in the political activities. I do not think that any organisation, even para military force is allowed to take any part in any political organisation. He has mentioned that unless they take part in the political organisations, they won't be knowing about happenings in different parts of the country. To take note of the political activities in different parts of the country, it is not necessary for them to join the politics itself. There are other agencies by which they can be in touch with those activities

Shri Zainul Basher has mentioned that the minorities should be given due representation. This will definitely receive the attention of the Government and we will try our best to see that all the communities, on the basis of merit, of course, I must say, will get due representation. Shri Zainul Basher has also mentioned that most of the IPS officers should be

kept away from this force. I have already mentioned that almost 90% of the force will be constituted by the Army, BSF and other para military forces. A very limited number of persons will be inducted into this force from police. It may be even less.

[Translation]

SHRI HARISH RAWAT : In case terrorists are hiding somewhere and a house is required to be searched, power has not be given to them for doing so. They have to conduct search along with the local police. They should be empowered through this Bill to conduct searches.

[English]

SHRI GULAM NABI AZAD : We are not dealing with the others. We are only dealing with the force, at the moment.

SHRI ATA-UR RAHMAN (Bara-pet) : Is it going to be a civil force or military force ? I have the highest regard for the Army. But they are trained in a different manner. Whereas this is a kind of police force doing a particular kind of security job. The Army is trained to destroy the enemy whereas the police is not trained to destroy the enemy. They are meant for taking selective action because the other side of the policemen is not our enemy at all. They are our own men.

SHRI INDRAJIT GUPTA : Police are trained to collude with the enemies ! Army is trained to kill the enemies.

SHRI GULAM NABI AZAD : It cannot be a civil service. But of course, it will be an armed force. It is a para military force.

SHRI C. MADHAV REDDI : It will not be a military force. It will be a sort of civil force.

SHRI GHULAM NABI AZAD : They will be given special training to combat terrorists.

I think, some hon. Members have mentioned whether they will be given the same training which the other forces are given. I would like to mention here that there is already existing a special Training Centre which is training these commandos. It is different from the other training institutes which are giving training to other forces. Shri Dharam Pal Singh Malik has mentioned that the recruitment should be done after thorough scrutiny. It should not be done from other forces and should have an independent source of recruitment. It is not possible. If you take new recruits, it will take a lot of time for them to get the basic training. That is why, we are picking the best within the existing lots in the military, para military forces so that they have the basic qualifications, and they will have the basic training. And added to that, we are giving extra training which naturally helps them to combat terrorists. They would not be permanently with this force. They are coming for some short period which will keep this force youthful and after that period is over, they will go back to their parent organisation—may be Army, CRPF, BSF or whatever the organisation may be. It will also help that parent organisation that they will be having some specially trained people within their own organisation.

[Translation]

SHRI ZAINUL BASHER (Ghazipur): Is it meant for terrorism or communal disturbances or hijacking ?

SHRI HARISH RAWAT : Then it will be another para-military force.

SHRI ZAINUL BASHER : Is it for terrorism and hijacking and not for communal riots ?

[English]

SHRI GHULAM NABI AZAD : We are making use of it for anti-hijacking.

That is why, I think, a point was raised by some hon. Member—I think, Mr. Indrajit Gupta mentioned it—whether we were going to send these forces to different parts of the country.

SHRI INDRAJIT GUPTA : Outside the country.

SHRI GHULAM NABI AZAD :... outside the country. As and when, God forbidding, there is hijacking and there is a demand from that particular country where the hijackers have taken the plane, they may require our support for that. For that purpose, we may have to send the Commandos. That is the only purpose.

SHRI ZAINUL BASHER : Will it be used for controlling communal disturbances ?

(Interruptions)

SHRI GHULAM NABI AZAD : It is not mentioned here. The Bill does not say that.

Sir, I have tried to cover all the points raised by the hon. Members.

SHRI RAM PYARE PANIKA (Robertsganj) : I want to seek a clarification. 'Internal disturbance' should be defined very clearly. So far as terrorism is concerned, we are satisfied. But the term 'internal disturbance' should be clearly defined. Otherwise, it will be misused by the State Governments for checking communal riots and there will be lots of difficulties. They will work under the guidance and direction of the State Governments.

SHRI GHULAM NABI AZAD : I have already said that some para military forces are working and under the same constitutional framework they will also be working.

Regarding his first point, I would like to mention that it is basically—I have said it and I would like to reiterate—an

anti-terrorist force. There is no question of other things happening. We have hundreds and thousands of things happening in different parts of the country. We cannot make use of them there.

SHRI INDRAJIT GUPTA : Mr. Panika's question is : if a State Government requests the Centre to send these commando forces to that State in order to deal with a communal riot or with an industrial strike or something like that which is unconnected with terrorist activity, will the Centre meet the request of the State Government or refuse to send this force ?

SHRI GHULAM NABI AZAD : It is basically an anti-terrorist force. I do not think that we will have such a big enough force that we will be able to meet all their day-to-day necessities.

SHRI C. MADHAV REDDI (Adilabad) : You have said that this force will be sent to the States. Are you not going to send this force to Union Territories ?

SHRI GHULAM NABI AZAD : Union Territories are also a part of the Union of India. Naturally, if it happens in Chandigarh and other places, we can send on our own.

MR. DEPUTY SPEAKER : 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 taken into consideration."

The motion was adopted.

MR. DEPUTY SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

CLAUSE—2 (Definitions)

SHRI SHANTARAM NAIK (Panaji) : Sir, I beg to move :

Page 3, line 29,—

add at the end—

"or diminution of the supply of water for agricultural purposes or for food or drink for human beings or for animals or render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property" (1)

SHRI MOOL CHAND DAGA (Pali) : Sir, I beg to move :

Page 1, line 14,—

after 'Union' insert "or the States" (7)

Page 2, line 33 and wherever it occurs in the Bill,—

for "Attorney" substitute "Advocate" (8)

SHRI ATA-UR RAHMAM (Barapet) : Sir, I beg to move :

Page 3, line 20,—

for "or any" substitute—

"or intimidate any" (29)

SHRI SHANTARAM NAIK : Sir, we have to use this force time and again. Permit me to say that there will be several occasions to use this force. Today our conception of 'terrorism' is limited; we are linking terrorism only with what happens in Punjab. But it is not so. Many times occasions may arise when we have to send this force to the States for their assistance. Therefore, I have broadened the definition of 'terrorism' by including these words :

"or diminution of the supply of water for agricultural purposes or for food or drink for human

[Shri Shantaram Naik]

beings or for animals or render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property". Besides what is being done you have to include this aspect so that definition of terrorism is complete.

SHRI MOOL CHAND DAGA : Sir, if you read the Preamble of this Bill you will find :

"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..."

So, I have given the amendment to add the words 'or the States' in Clause 2 (1) (a) (i) —

"which is engaged in operations against terrorists or any person in arms against the Union or the States..."

If there is terrorist activity prevailing in the States how your National Security Guards will be able to act unless you include the words 'or the States' after the word 'Union'.

SHRI ATA-UR RAHMAN : Sir, as per my amendment No. 29 to Clause 2 I seek to add the words 'or intimidate any' after the word 'over-awe'. Over-awe can be applied in respect of large population who turns violent but what about the smaller sections of population. So I seek the inclusion of words or 'intimidate any'.

SHRI GHULAM NABI AZAD : Sir, as far as Shri Shantaram Naik's amendment is concerned I would like to mention that the definition of terrorist as originally contained in the Bill already includes 'cause damage or destruction of property,

disruption of any supply or service essential to the life of the community'. This will also include reference to water, public roads, bridges, etc. So, I do not think there is any need for this amendment. It is already mentioned.

As far as Shri Dagaji's amendment is concerned he wants to insert the words 'or the States' after the word 'Union'. In this regard it may be stated that the Union is a Union of States. Under Article 1 sub-clause (1) of the Constitution, India is a Union of States. So there is no need to put "States".

Shri Ata-ur Rahman wanted to add the word 'intimidate'. Terrorist has been defined in relation only to the offences of grave nature. In this definition the word 'terror' has been used which is an aggravated form of intimidation. So, the addition of this word is not acceptable and I request all of them to withdraw their amendments.

SHRI SHANTARAM NAIK : Sir, I seek leave of the House to withdraw my amendment No. 1.

Amendment No. 1 was, by leave, withdrawn.

SHRI MOOL CHAND DAGA : I seek leave of the House to withdraw my amendments No. 7 and 8.

Amendments Nos. 7 and 8 were, by leave, withdrawn.

MR. DEPUTY SPEAKER : I shall now put amendment No. 29 moved by Shri Ata-ur Rahman to the vote of the House.

Amendment No. 29 was put and negatived.

MR. DEPUTY SPEAKER : The question is :

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

New Clause 4A

SHRI C. MADHAV REDDI : I beg to move :

Page 4, after line 10, insert—

“4A. The persons to be enrolled to the National Security Guard, the mode of enrolment and the authority to enrol and to appoint shall be such as may be prescribed.” (44)

I was not convinced with the explanation given by the hon. Minister that such a provision exists in the Bill and it would be possible for the Government to make rules because under Clause 4, Sub-clause 2, what the Government can do is only to constitute the force. Constitution does not mean recruitment; Constitution means that you will define as to what the force should consist of, how many should be there from the military and how many from the para-military forces etc. etc. and how many from direct recruitment. As regards actual recruitment, it does not give you powers to make rules for recruitment. It was said that approximately ninety per cent of the personnel to these posts are being taken from the army and para-military forces because we have a contingent situation. Immediately we want a force, we cannot recruit fresh persons, train them for one year and then use them. There is a case for the Government to take the people on deputation from army, BSF, CRP and so on and that can be understood. But the point is that this is a permanent force. It is not going to be disbanded, in spite of the fact what the Minister has just stated that they are going to go back to the Department, they are coming for a short while and after the task is over, they are going to go back to the parent department. I think, that conception is not there in the Bill. It is a permanent Statute just as any other Statute like the Assam Rifles, which was constituted long time ago in 1940s but it still exists. The point is that you have got to take persons directly from the public. Even if it is five per cent, you have got to take and recruit them. Such a provision is there in all the other Acts;

only in this particular Bill that provision has not been included. My point was that it was an omission and it was not properly understood. That provision must be there in this Bill.

SHRI GHULAM NABI AZAD : Sir, I would like to make it clear that when I mentioned that they will be going back after certain period, that does not mean that everybody will be going back. They will be going back and new chaps will be replacing them. It does not mean that we are winding it up after some time. It will be just replacing a few people from time to time so that the youthfulness of the force is maintained. That would answer one question.

As far as the amendment is concerned, as I have already mentioned, the mode of enrolment, appointment, procedure etc. are all matters which shall be taken care of in the NSG rules, which shall be framed under the provisions of Clause 139 of the Bill. I do not think, that we would be able to accept the amendment.

15.00 hrs.

SHRI C. MADHAV REDDI : I seek leave of the House to withdraw my amendment.

*Amendment No. 44 was, by leave,
withdrawn.*

Clause 5—(Control, Direction etc.)

SHRI ATA-UR RAHMHN : I beg to move :

“Page 4, line 16, —

add at the end—

“Which rank shall not be shared in any capacity by another officer of similar rank as provided in sub-section(2) of this section.”
(30)

“Page 4, line 20,—

[Shri Ata-ur Rahman]
after "officers" insert—

"of the Indian Police Service."
(31)

What has happened in the last 10 to 15 years is this. It is the poison of dilation that is killing the police force. There used to be only one I.G.P. and he was the lord of all that he surveyed. What happened later on was that sycophancy came into play, when there was a very senior officer who knew buttering very well and wanted to get into the post of I.G.P. and since there was already one I.G.P., he could not be given the billet a Special I.G.P. was created. And after that, Additional IGs, Super IGs and Director Generals. That finished the police force and if the police force is suffering today, it is because of the indecision on the part of the Chief Ministers to come heavily down and say, "No, I will not accept it. There will be only one master and one, cone of command." But that was not there. What I fear is, if we make the same sort of mistake and if we share the post of the DG with other officers of similar rank, this will finish this organisation also as it has finished the police forces in different States of India.

SHRI GHULAM NABI AZAD : Sir, this sub-section lays down that there will be one officer of the rank of the Director General.

MR. DEPUTY SPEAKER : Are you withdrawing your amendments ?

SHRI ATA-UR RAHMAN : No, Sir.

MR. DEPUTY SPEAKER : I shall now put amendment Nos. 30 and 31 moved by Shri Ata-ur Rahman to the vote of the House.

Amendments Nos. 30 and 31 were put and negatived.

MR. DEPUTY SPEAKER : The question is:

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

MR. DEPUTY SPEAKER : Mr. Daga, are you moving your amendment to clause 6 ?

SHRI MOOL CHAND DAGA : No Sir.

MR. DEPUTY SPEAKER : The question is :

"That Clauses 6 to 11 stand part of the Bill."

The motion was adopted.

Clauses 6 to 11 were added to the Bill.

Clause 12—(Restrictions respecting to form associations, freedom of speech etc.)

SHRI ATA-UR RAHMAN : I beg to move :

"Page 5, line 31,—

after "participate" insert—

"individually or severally" (32)

"Page 5, line 32,—

after "in" insert—

"hunger strike or in" (33)

Sir, this is going to be a civil force. But from the statement made on the floor of the House by the hon. Minister, it appears that he is going to take in, if not 90 per cent, at least 70 to 80 per cent of the army personnel. If the boss also is going to be an army boss, then it will, more or less be an army organisation, although it is named as a civil organisation. If we are taking civilians, we should

have a boss from the Indian Police Service so that in future there will not be any jealousy between the army officers and non-army officers. As the Force builds up, they will have their own officers also in future. But if you do not make provisions for civilian heads, this Force will be completely under the thumb of the army and working will be very difficult. As I said earlier, training of the army is quite different from the training of the police. Army, I repeat, is trained to destroy the enemy, whereas the police are meant to take selective action against certain persons who are terrorists.

SHRI GHULAM NABI AZAD : We are not accepting it.

MR. DEPUTY SPEAKER : Now, I put Amendment Nos. 32 and 33 to the vote of the House.

Amendment Nos. 32 and 33 were put and negatived

MR. DEPUTY SPEAKER : The question is :

“That Clause 12 stand part of the Bill.”

The Motion was adopted.

Clause 12 was added to the Bill.

Clause 13—(Remedy of aggrieved persons other than officers)

SHRI MOOL CHAND DAGA : I beg to move :

Page 5,—

after line 47; insert—

“Provided that the Central Government shall be competent to review any such decision and to pass any order it considers just and reasonable.” (10)

I am not saying anything else, but that I have done justice to my conscience. I do not care for other things.

Suppose an officer has put in a complaint; and he gives a decision. Then he says that decision is final. I say it should not be so. That is why I have given the amendment which I have just moved. So, Central Government has the power, because after all it is the nation's security guard. If anybody or an officer puts in a complaint, and you say that the decision is final—I think Central Government must have that power. If they do not have that power, sometimes injustice is done. Even in ordinary cases, you have the first appeal, second appeal and the revisions also. (Interruptions) I say that if you think that the Central Government must have that power, it is open to you to have it. Once the Director-General makes it final, Government cannot help. So, you can do anything, but you should think properly.

SHRI GHULAM NABI AZAD : This clause applies only to persons other than officers. The appointing authority in respect of these ranks is the Director-General, Inspector General, Deputy Inspector General and the Group Commanders. Therefore, it is not considered administratively expedient to burden the Central Government with the task of reviewing the decisions of these authorities in regard to administrative matters. However, in regard to officers, as stated in Clause 14, the Central Government has already been made a competent authority to review the decisions given by the Director-General.

SHRI MOOL CHAND DAGA : That is all right. I withdraw it.

MR. DEPUTY SPEAKER : Has Mr. Daga the leave of the House to withdraw his amendment ?

Amendment No. 10 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

“That Clause 13 stand part of the Bill.”

The Motion was adopted.

Clause 13 was added to the Bill.

SHRI MOOL CHAND DAGA : I am not moving my amendment No. 11 to clause 14.

MR. DEPUTY SPEAKER : The question is :

“That Clause 14 stand part of the Bill.”

The Motion was adopted.

Clause 14 was added to the Bill.

Clause 15—Offences in relation to the terrorists and other persons in arms against the union and punishable with death

SHRI SHANTARAM NAIK : I beg to move :

Page 6, line 10,—

omit “shamefully” (2)

SHRI MOOL CHAND DAGA : I beg to move :

Page 6, lines 21,—

omit “or such less punishment as is in this Act mentioned” (12)

SHRI AT-AUR RAHMAN : I beg to move :

Page 6, line 11,—

add at the end—

“and in course of their duties”(34)

SHRI SHANTARAM NAIK : Regarding this matter, it is said in the Bill :

“Any person subject to this Act who commits any of the following offences, that is to say,—

(a) shamefully abandons place of his duty or misbehaves...”

I have sought the deletion of the word “shamefully”. If this word is incorporated, you will have to prove that he abandoned shamefully, and also that he abandoned—which burden you are unnecessarily taking on your shoulders. It is sufficient if it is proved that the man has abandoned. Why should it be proved that he shamefully abandoned? What is the nature of the evidence that will lead it to be proved that he shamefully abandoned? What is shame, etc.? It will be a problem. So, I plead before you that this word ‘shamefully’ be deleted and the word ‘abandons’ may be kept.

SHRI MOOL CHAND DAGA : This clause speaks that if a national security guard commits certain offences, then you are punishing him. On page 6, you have mentioned like this :

“Shall, on conviction by a Security Guard Court, be liable to suffer death...”

This is the punishment. I have not seen such a law or such less punishment as is in this Act mentioned. When an enquiry is instituted, it is instituted under Section 15 because under Section 16, you have charge-sheeted him. Then at the time of conviction, you say, “less punishment as is in this Act mentioned.” I have not followed it. You must have a self-contained clause, if you want to have a good law. This Department has done very poor drafting. So, you first say that this is the punishment if any national security guard commits any offence; he will be sent to imprisonment or whatever we have said here. This is not the way to deal with it. Once a charge has been framed under Section 15, an enquiry has gone into that and judgment has been delivered, but at the time of conviction, you say, ‘less punishment as is in this Act mentioned. It must be a self-contained clause or you say it can be extended to that period. So, you have mentioned this also. What is this? You can say, one month or two months or five months or seven months. I request you to please consider it, because you have mentioned it in so many sections. This is not a good drafting.

SHRI ATA-UR RAHMAN : I have said at the end "or shamefully abandons place of his duty or misbehaves in such a manner as to show cowardice during operations;" operations are very special words. Of course, the word 'operation' has not been described in the Act. I have meant in this context, even under simple course of duty; that is why I have said in course of duty."

SHRI GHULAM NABI AZAD : As regards Shri Shantaram Naik's amendments, the expression "shamefully" has been used in the Army Act as well as BSF Act. Since this force constitutes mostly of army and BSF, that is why we have kept this particular wording.

SHRI SHANTARAM NAIK : It is not a statutory thing. You have not used the proper language in both. Therefore, improvement must be made.

SHRI GHULAM NABI AZAD : As I said, this is on the basis of Army and the BSF Acts. As for Mr. Mool Chand Daga's amendment, the power of national security guard to give sentences are given in Section 47. The force personnel can be given lessor punishment as is mentioned in Section 47. As Mr. Rahman has mentioned that at the end, course of other duty, since the offence is punishable with heavy sentence of death, penalty, it would not be appropriate to include therein any lapse otherwise than during operations.

MR. DEPUTY SPEAKER : Has Shri Shantaram Naik the leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

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

MR. DEPUTY SPEAKER : Shri Daga.

SHRI MOOL CHAND DAGA : I am withdrawing.

MR. DEPUTY SPEAKER : Has

Shri Mool Chand Daga the leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

The amendment No. 12 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : Shri Ata-ur Rahman.

SHRI ATA-UR RAHMAN : I withdraw my amendment.

MR. DEPUTY SPEAKER : Has Shri Ata-ur Rahman the leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

The amendment No. 34 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

"That Clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause (16—Offences punishable more severely on active duty than at other times.)

MR. DEPUTY SPEAKER : Now we come to Clause 16. There are amendments, by Shri Shantaram Naik, Shri Mool Chand Daga and Shri Ata-ur Rahman.

SHRI SHANTARAM NAIK : I beg to move—

Page 6, line 33,—

omit "or such less punishment as is in this Act mentioned" (3)

Page 6, line 36,—

omit “or such less punishment as is in this Act mentioned” (4)

SHRI MOOL CHAND DAGA : I beg to move,—

Page 6, line 33—

omit “or such less punishment as is in this Act mentioned” (13)

Page 6, line 36,—

omit “or such less punishment as is in this Act mentioned” (14)

SHRI ATA-UR RAHMAN

Page 6, line 27,—

add at the end—

“behaves unusually as an after-effect of drug or such other substance; or” (35)

SHRI MOOL CHAND DAGA : You will kindly see that Clause 16 says;

“if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years...”

It may extend to one year, it may extend to two years, it may extend to ten years, and so on. So, what is there to say “it may extend to fourteen years”? And now what is the last sentence? It reads,

“...or such less punishment as is in this Act mentioned;”

Will you try to make me understand? You say that he can be punished and the punishment may extend to fourteen years. You can send him for two months, for one day, up to fourteen years. When you says, “or as mentioned in the Act,” What is that? speak out? In the Act mentioned. It shows

[Translation]

In case of such law made in hurry, what the Speakers used to do is that they put the name of our colleague Ministers in the end so that Members may not speak. What is this? What procedure is being followed for legislation? I am saying openly that law is being made in hurry and without any consideration.

[English]

I will tell you the law.

If I say that a law speaks about a lawyer, I will not understand that it can be extended up to fourteen years.

Well and good. The charge sheet has been framed.

MR. DEPUTY SPEAKER : Dagaji, the Judge may understand it I think.

SHRI MOOL CHAND DAGA : They say “as is in this Act.” What is mentioned in the Act? Will the hon. Minister let me know how many people have been punished, since the NSG has been in force since 1984, and how many officers have been punished up to this time of two years? You may say, that NSG has been working and some have been punished. Will you give me an instance when they have been punished? The hon. Minister may be reading a note given by his officer. I do not mind.

MR. DEPUTY SPEAKER : Shri Ata-ur Rahman, Amendment No. 35.

SHRI ATA-UR RAHMAN : I say that a sentry may be drunk or may sleep while at his post. I have suggested an amendment because one can sleep without being drunk. Some times, he is drunk, having taken liquor, or it does not necessarily mean that he is drunk. It may be that he has taken some drugs or some substance like ‘Ganja’ or some thing. He can fall asleep after taking some such a thing. That is a common lapse on the part of a sepoy.

That is why, I mentioned that it should be there. If the commanders can control without this section, then it is all right.

SHRI GHULAM NABI AZAD : We are accepting neither of the two amendments.

SHRI DINESH GOSWAMI (Guwahati) : What my learned friend, Shri Mool Chand Daga, says is correct that in every penal law when a maximum punishment is suggested, minimum is also suggested.

SHRI GHULAM NABI AZAD : Awarding minimum punishment is at the discretion of the court. We cannot accept the amendment.

SHRI SHANTARAM NAIK : I seek leave of the House to withdraw my amendment.

MR. DEPUTY SPEAKER : Has Mr. Shantaram Naik leave of the House to withdraw his amendments ?

SEVERAL HON. MEMBERS : Yes.

Amendments Nos. 3 and 4 were, by leave, withdrawn

SHRI MOOL CHAND DAGA : I seek leave of the House to withdraw my amendments.

MR. DEPUTY SPEAKER : Has Mr. Daga leave of the House to withdraw his amendments ?

SEVERAL HON. MEMBERS :

Amendments Nos. 3 and 4 were by leave, withdrawn

MR. DEPUTY SPEAKER : Now, I shall put amendment No. 35 moved by Shri Ata-ur Rahman to the vote:

Amendment No. 35 was put and negatived.

MR. DEPUTY SPEAKER : The question is :

“That clause 16 stand part of the Bill”

The motion was adopted.

Clause 16 was added to the Bill.

MR. DEPUTY SPEAKER : Are you moving your amendment to clause 17, Mr. Daga ? —Not moving. The question is :

“That clause 17 stand part of the Bill”

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18—(Desertion and aiding desertion)

SHRI ATA-UR RAHMAN : I beg to move :

Page 7, lines 22,—

after “deserter” insert—

“or proclaimed offender” (36)

I wanted to put in this word because it concerns with various other offences.

SHRI GHULAM NABI AZAD : We are not accepting it.

MR. DEPUTY SPEAKER : Now, I shall put Amendment No. 36 moved by Shri Ata-ur Rahman to vote.

Amendment No. 36 was put and negatived.

MR. DEPUTY SPEAKER : The question is :

“That clause 18 stand part of the Bill”

The motion was adopted.

Clause 18 was added to the Bill.

Clause 19—(Absence without leave)

SHRI ATA-UR RAHMAN : I beg to move :

Page 8, line 8,—

for “school” substitute—

“training institution” (37)

MR. DEPUTY SPEAKER : Now I shall put amendment No. 37 moved by Shri Rahman to vote.

Amendment No. 37 was put and negatived.

MR. DEPUTY SPEAKER : The question is :

“The Clause 19 stand part of the Bill”

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20—(Striking or threatening superior officer.)

SHRI ATA-UR RAHMAN : I beg to move :

Page 8,—

(i) line 15,—

after “language” insert—

“or gesture”

(ii) line 16,—

after “language” insert “or gesture” (38)

Page 8, line 20,—

for “fourteen” substitute “ten” (39)

Page 8, line 23,—

for “ten” substitute “five” (40)

MR. DEPUTY SPEAKER : Now I shall put amendments moved by Shri Ata-ur Rahman to vote.

Amendment Nos. 38, 39 and 40 were put and negatived.

MR. DEPUTY SPEAKER : The question is :

“That clause 20 stand part of the Bill”

The motion was adopted.

Clause 20 was added to the Bill.

MR. DEPUTY SPEAKER : Are you moving your amendment to clause 21 Mr. Daga ? He is not moving. Mr. Ata-ur Rahman is also not moving. The question is :

“That clause 21 stand part of the Bill”

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22—(Assault and Obstruction)

SHRI SHANTARAM NAIK : I beg to move :

Page 8, line 41,—

for “though of inferior rank” substitute—

“including an officer of inferior rank to such person” (5)

SHRI MOOL CHAND DAGA : I beg to move :

Page 8, line 41,—

omit “though of inferior rank” (19)

SHRI SHANTARAM NAIK : Here I submit as my learned colleague has also said, the entire drafting of the Bill has been shabby. I think, in his hearts of heart the Minister also admits that. Clause 22 says :

“Any person subject to this Act who commits any of the following offences, that is to say...”

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank ..”

(Interruptions)

MR. DEPUTY SPEAKER : It is already circulated. Be brief.

SHRI SHANTARAM NAIK : I would like to submit that instead of “though of inferior rank” substitute by saying “including an officer of inferior rank to such person.”

SHRI MOOL CHAND DAGA : Sir, what is said here is if he is engaged “in any quarrel, affray of disorder, refused to obey any officer, though of inferior rank, who orders him...” I say remove these words for heaven’s sake.

[Translation]

It should not be like this that whatever one is told or whatever one has learnt, he should repeat the same here.

[English]

SHRI GHULAM NABI AZAD : Sir, I have already mentioned on a number of occasions that most of the constituents of this force consist of para-military forces and army. This provision is already existing in this BSF and that is why we have inserted it here.

MR. DEPUTY SPEAKER : Mr. Shantaram Naik, are you withdrawing your amendment ?

SHRI SHANTARAM NAIK : I withdraw it.

MR. DEPUTY SPEAKER : Has the hon. Member, Shri Shantaram Naik leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 5 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : Shri Mool Chand Daga. Are you withdrawing your amendment ?

SHRI MOOL CHAND DAGA : I withdraw my amendment.

MR. DEPUTY SPEAKER : Has the hon. Member, Shri Mool Chand Daga leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 19 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

“That clause 22 stand part of the Bill.”

The motion was adopted.

Clause 22 was added to the Bill.

MR. DEPUTY SPEAKER : Mr. Daga, are you moving your amendment to clause 23 ?

SHRI MOOL CHAND DAGA : I am not moving, Sir.

MR. DEPUTY SPEAKER : The question is :

“That Clause 23 and 24 stand part of the Bill.”

The motion was adopted.

Clause 23 and 24 were added to the Bill.

Clause 25—(Drunkennes)

SHRI MOOL CHAND DAGA : I beg to move :

Page 9, line 29—

after “drunkenness,” insert —

“at any place other than the place of his residence or living” (21)

Page 9, lines 31 and 32,—

omit “or such less punishment as is in this Act mentioned” (22)

Sir, clause 25 says, “Any person subject to this Act, who is found in a state of drunkenness, whether on duty or not.” When he is on duty, I agree. But what is this “or not”? Say, he is sleeping in his house at night and is enjoying drink. He is not on duty. But you say “whether on duty or not.” If he is at his house retiring at 12 O’clock, taking some wine, you will say, “No, come on.” I have not understood what is this offence. Kindly read this whole clause, don’t read one part of it. It says :

“Any person subject to this Act, who is found in a state of drunkenness, whether on duty or not, shall on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act, mentioned.”

Either you put restriction that no army man can ever drink.

SHRI GHULAM NABI AZAD : Sir, this is not our intention to make drinking within one’s own house an offence as the hon. Member has mentioned. However those members of the force who live within the campus of the unit cannot be allowed to get drunk. To discourage such practice, this provision is necessary. So, within his own house we do not object, but it is just within the campus if he does it.

SHRI MOOL CHAND DAGA : I

seek leave of the House to withdraw my amendments, Nos. 21 and 22.

MR. DEPUTY SPEAKER : Has the hon. Member leave of the House to withdraw his amendments Nos. 21 and 22 ?

Amendments Nos. 21 and 22 were, by leave, withdrawn.

SEVERAL HON. MEMBERS : Yes.

MR. DEPUTY SPEAKER : The question is :

“That Clause 25 stand part of the Bill.”

The motion was adopted.

Clause 25 was added to the Bill.

MR. DEPUTY SPEAKER : Mr. Daga is not in his seat. No amendments are moved. I shall put Clause 26 to vote.

The question is :

“That Clause 26 stand part of the Bill.”

The motion was adopted.

Clause 26 was added to the Bill.

Clauses 21 to 31 were added to the Bill.

SHRI MOOL CHAND DAGA : I am not moving my amendment to Clause 32.

MR. DEPUTY SPEAKER : All right.

I shall put Clauses 32 to 34 to vote. The question is :

“That Clauses 32 to 34 stand part of the Bill.”

The motion was adopted.

Clauses 32 to 34 were added to the Bill.

SHRI MOOL CHAND DAGA : I am not moving my amendment to clause 35.

MR. DEPUTY SPEAKER : All right. I shall put Clause 35 to 48 to vote.

The question is :

“That Clauses 35 to 48 stand part of the Bill.”

The motion was adopted.

Clauses 35 to 48 were added to the Bill.

Clause 49—(Courts Combination of punishments)

SHRI SHANTARAM NAIK : I beg to move :

Page 16, line 7,—

omit “A sentence of a” (6)

Sir, this is also an example of the same thing which we have been talking about. Section 49 reads like this;

“A sentence of a Security Guard Court may award.” etc. etc. It is never said that it is a sentence of a court that awards. So, I say that the words “A sentence of a” may be deleted. It would only remain “Security Guard Court may award” etc. That will be a reasonable and cogent construction.

SHRI GHULAM NABI AZAD : The wording of this Clause is identical to the provisions in the Army Act and BSF Act. Therefore there is no need to amend these provisions.

SHRI SHANTARAM NAIK : I seek leave of the House to withdraw by amendment.

MR. DEPUTY SPEAKER : Has the hon. Member leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 6 was, by leave withdrawn.

MR. DEPUTY SPEAKER : Now the question is :

“That Clauses 49 and 50 stand part of the Bill.”

The motion was adopted.

Clause 49 and 50 were added to the Bill.

SHRI MOOL CHAND DAGA : I am not moving my amendment to clause 51.

MR. DEPUTY SPEAKER : All right. I shall put clauses 51 to 64 to vote. The question is :

“That clauses 51 to 64 stand part of the Bill.”

The motion was adopted

Clauses 51 to 64 were added to the Bill.

Clause 65—Composition of General Security Guard Court.

SHRI MOOL CHAND DAGA : I beg to move :

Page 19, line 37,—

for “five” substitute “three” (28)

SHRI GHULAM NABI AZAD : I am not accepting it.

MR. DEPUTY SPEAKER : Are you withdrawing it ?

SHRI MOOL CHAND DAGA : I seek leave of the House to withdraw the amendment.

MR. DEPUTY SPEAKER : Does the hon. Member have leave of the House to withdraw the amendment ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 28 was, by leave, withdrawn.

MR. DEPUTY SPEAKER : The question is :

“That clauses 65 to 135 stand part of the Bill.”

The motion was adopted.

Clauses 65 to 135 were added to the Bill.

Clause 136—(Deductions from Pay and Allowances

SHRI ATA-UR RAHMAN : I beg to move :

Page 37, lines 2 and 3,—

omit “or illegitimate child” (42)

Page 37, lines 23 and 24,—

omit “or illegitimate child” (43)

SHRI GHULAM NABI AZAD : I am not accepting.

MR. DEPUTY SPEAKER : I shall now put the amendments moved by Shri Ata-ur Rahman to the vote of the House.

amendments Nos. 42 and 43 were put and negatived.

MR. DEPUTY SPEAKER : The question is :

“That clause 136 stand part of the Bill.”

The motion was adopted.

Clause 136 was added to the Bill.

MR. DEPUTY SPEAKER : The question is :

“That clauses 137 to 140 stand part of the Bill.”

The motion was adopted.

Clauses 137 to 140 were added to the Bill.

MR. DEPUTY SPEAKER : The question is :

“That clause 1, the Enacting Formula and the Title stand part of the Bill.”

The motion was adopted.

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.”

SHRI MOOL CHAND DAGA : Sir, I have submitted an application.

MR. DEPUTY SPEAKER : Only one minute I am allowing you to tell whatever you want to tell.

Motion moved :

“That the Bill be passed.”

[Translation]

SHRI MOOL CHAND DAGA (Pali) : Mr. Deputy Speaker, Sir, I hope you have thoroughly gone through this Bill. It appears from the Bill that all the powers have been delegated to the bureaucrats. It is a matter of regret that the National Security Guard was raised in 1984 and the Government have been continuing it without any rules. And now in 1986, the Bill is being discussed. It is surprising as to how the Government works.

[English]

This is the power which is the power being delegated or given to subordinate officers by the Parliament. How these bureaucrats can make an encroachment upon our rights ?

[Translation]

It is a lacuna and the coming time will tell you this. All the matters of policy and principles will be decided by the bureaucrats.

[English]

Is that the Parliament which will decide ?

Clause 139(2) (a) says, "the manner in which the Security Guard shall be constituted..." The Minister gave a long reply.

MR. DEPUTY SPEAKER : Dagaji, in general you can say. But you go once again to clauses and everything which are passed is not good. Therefore, you confine yourself to the general observations.

SHRI MOOL CHAND DAGA : Sir, I am talking about our powers. I am not talking anything else. This is clause 139(2)(a),—"the manner in which the Security Guard shall be constituted..." According to the statement given by the hon. Minister, these people will decide how the National Security Guard will be constituted, and conditions of service. What powers you have delegated to us? You are telling us that the procedural method you must follow and the policy matters will be decided by the bureaucrats. *(Interruptions)*. Kindly read it, Rangaji, because you are an aged and experienced person. *(Interruptions)*. Mr. Deputy Speaker, you are all clever, you always look to the walls, and I know it. I say, what are we doing? We are giving the powers of framing the rules. The Minister has given a long reply saying you will have this and that. So, clause 139(2)(a) says, 'the manner'...

MR. DEPUTY SPEAKER : Dagaji, I request you not to refer to any details of these clauses because in the Third Reading you cannot refer to all the details. You are to talk about the Bill only.

SHRI MOOL CHAND DAGA : One thing is that this is all a police matter—how this National Security Guard will be formed, how it will function. But nothing is there. Now, what will happen to the abeters? May be terrorists can be dealt with, but what will happen to those abeters?

[Translation]

SHRI ATA-UR RAHMAN : It is regarding evidence.

SHRI MOOL CHAND DAGA : No, it is not. What action is provided for those who are assisting the terrorists. Can this Act work against the abeters? In my view it is completely silent about it.

Thirdly, this Act came into force in 1984, will the hon. Minister tell me how this force has been functioning without rules and what is the necessity to introduce this Bill now? Then, you have pointed out in the Bill that it is neither Border Security Force nor para-military force but a special Armed force. But you have denied it in this Bill. You have said :

[English]

We want to create a special armed force.

[Translation]

You have said that some police personnel will also be inducted into it. Both these things are contradictory. Mr. Deputy Speaker, Sir, you are ringing the bell. You are doing your duty and we are doing our duty. I thank you.

[English]

MR. DEPUTY SPEAKER : You are also doing your duty and I am also doing my duty. Now let us allow the Minister to do his duty.

[Translation]

SHRI MOOL CHAND DAGA : We should feel proud of the Bills brought forth by the Government but we are not feeling proud of this Bill. Such Bills should be referred to the Committee. The policy should be formulated by Parliament and it should not be left to the bureaucrats.

[English]

SHRI GHULAM NABI AZAD : Sir, I would not like to mention anything because it is not a new thing for Mr. Daga. But only one thing I would like

[Shri Ghulam Nabi Azad]

to mention and that is, it is not true that the officers are encroaching into Parliament as to what Parliament is doing. They are doing their job and Parliament is doing its own job.

And if Mr. Daga is competent enough to draft the Bill next time, I will definitely seek his advice.

MR. DEPUTY SPEAKER : Now the question is :

"That the Bill be passed."

The motion was adopted.

15.42 hrs.

CENTRAL DUTIES OF EXCISE
(RETROSPECTIVE EXEMPTION)
BILL

[English]

MR. DEPUTY SPEAKER : Now, we take up item No. 11. Shri Janardhana Poojary.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : I beg to move :

"That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, be taken into consideration."

As the hon. Members are aware, the Central Excise Tariff Act, 1985 providing for a new tariff nomenclature, as also rates of duties of excise, along with two companion Acts, namely the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1985 and the Additional Duties of Excise (Textiles and

Textile Articles) Amendment, Act, 1985 were brought into force on the 28th February, 1986.

These Acts sought to preserve, by and large, the then existing duty structure. However, where the statutory rates of duties were fixed at a level higher than the then effective rates, an attempt was made to continue the effective rates through exemption notifications so that any unintended charge in the rates of duty was corrected.

15.43 hrs.

[SHRI SHARAD DIGHE *in the chair*]

Some of these exemption notifications could be issued only after 1st March, 1986 when impact of the duty changes came to be known to the Government either from the trade and industry or from the field offices. There were also some other notifications issued for the purpose of restoring the rate of duty prevailing prior to 1st March, 1986 on account of changes made by the notifications issued along with the Finance Bill, 1986.

Many associations and trade bodies have represented that the issue of the notifications after a lapse of time had caused hardship to a number of manufacturers. The question has also been raised regarding the recovery of duty from 1st March, 1986 up to the date of issue of the corrective notifications, entailing unintended duty burden in respect of certain excisable goods. A scrutiny of these representations has revealed that there has been genuine hardship in some cases. The Government is, therefore, of the view that in these cases, suitable relief would need to be given to assesseees in respect of clearances of goods effected during the intervening period, i. e. from the 1st March, 1986, upto the date of issue of exemption notification.

The exemption notifications have been issued by virtue of the powers conferred under rule 8 of the Central Excise Rules, 1944. The Central Excises and Salt Act, 1944, under which the said rules were made does not confer power to issue

exemption notifications with retrospective effect. Accordingly, it has become necessary to enact a separate legislation to give retrospective effect from 1st March, 1986 to those exemption notifications issued on or after the 3rd March, 1986 and before the 8th August, 1986 which have the effect of—

- (a) maintaining the effective rates of duties of excise at the level obtaining prior to 28th February, 1986, with reference to the changes in rates of duties of excise made as a sequel to implementation of the new tariff, or
- (b) maintaining the effective rates of duties of excise at the level obtaining prior to 1st March, 1986, with reference to the changes in rates of duties of excise made through the Finance Bill, 1986.

As regards the duties of excise which have been collected, but which would not have been so collected if the exemption notification was in force at the material time, it is proposed to refund the same provided that any person claiming refund of such duty shall make an application in this regard within six months from the date of commencement of the proposed legislation. It is further proposed that no such refund shall be allowed where credit of duties of excise has been taken as proforma credit or MODVAT credit, or where the goods on which the duties of excise have been paid have been exported under a claim for rebate of such duties.

As regards duties of excise which have become payable, but which would not have been so payable if the notification was in force at the material time, it is proposed that the same shall not be required to be paid.

Some of the notifications issued between the 3rd March 1986 and 8th August 1986 relate to grant of exemption from excise duties in respect of several goods, whereas retrospective exemption is to be granted only in regard to

some of these goods. The amendment seeks to make the position clear that in such cases retrospective exemption will be limited to those goods which satisfy the criteria given in (a) or (b) of sub-clause (1) of clause 2 of the Bill.

Sir, I beg to move :

“That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, be taken into consideration.”

MR. CHAIRMAN : Motion moved :

“That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, be taken into consideration.”

SHRI VIJAYA KUMAR RAJU (Narasapur) : I am supporting this Bill and I would like to mention in this connection some points regarding this Central Duties of Excise (Retrospective Exemption) Bill, 1985.

It appears that some exemptions have been given to some companies and to some manufacturers. In this regard I would like to mention about these exemptions because these exemptions in some cases are going to be misused by the big companies and especially the MRTP companies because they are only changing the labels and getting these excise exemptions. If you take for example paper industry in 1983 some exemptions were given to them to import bagasse as a raw material for the paper and for that, by using not less than 75% bagasse, 100% exemption was given. Similarly, there are other raw materials like paddy straw, wheat straw and mestha but this exemption has not been extended in respect of other raw materials.

But unfortunately those paper mills have been given licences based on unconventional raw materials. In this regard

[Shri Vijaya Kumar Raju]

I would like to mention another thing. The Government of India has allowed import of bagasse pulp from abroad. For bagasse pulp, they are giving the excise duty concession. Some mills are using this bagasse raw material by importing and they are thus getting the benefit in two ways which they have no right to get. Because these mills are intended to make the paper by hardwood and bamboo. But in spite of that, they are using this bagasse by importing and due to that, we are not only losing foreign exchange but we are also losing excise duty because of the exemption. Take, for example, imported waste paper. So much of waste paper, the mills are importing under OGL. This facility has been given only to mini paper mills, but the big paper mills are also importing a big quantity of waste paper for their consumption and they are getting both the benefits. We are losing not only foreign exchange but also excise duty because of the exemption. Ultimately the mini paper mills are suffering heavy losses because they are not in a position to compete with big mills. That is why I am requesting the Finance Minister to take into consideration all these things and stop the big mills from importing waste paper and bagasse pulp from abroad. This facility is to be given only to small mills.

I would like to mention some more things. For example, there are so many companies which are evading excise duty. It is a well known fact. Take, for example, AC machines. Some companies are selling their spare parts to their dealers without paying excise duty, and those dealers are assembling AC machines and are selling to the consumers at almost half the price. If I want to purchase one AC machine from the dealer, they will give me for Rs. 10,000 or Rs. 11,000 whereas if I want to purchase this AC machine from the company with an official bill, then I will have to pay Rs. 22,000 or Rs. 23,000. The big companies are also evading excise duty and Government is not taking severe action against them. These things are going on. That is why,

I am requesting the hon. Minister to look into this matter also.

On December 18, 1985, we got this Notification. In this Notification, some punishments have been prescribed. But they are not sufficient because the legal procedure is the same and it takes much time. In all the cases where they have committed mistakes they are going to courts and indulging into tactics to avoid payment of heavy amounts of excise duty. They are putting some legal complications by interpreting the rules in a different way. On this money they need not pay any interest. So wantonly they are going to courts. So I request the Finance Minister to look into the matter. The legal position should be changed. If you want to punish a person through normal course he may not be there to be punished. There is provision for seven years' imprisonment if the company evades Rs. 1 lakh or more. Now there is small change also. Previously some small manager could attend the court and argue the case. Now all the concerned officers of the management are liable to be punished but even then these punishments are not sufficient and cannot give any threat to them. Tax evasion evil is increasing like a cancer. So many products are being sold in the market without the excise duty and sales tax having been paid. They are getting more benefits for themselves by selling like this. Those companies which are paying excise duty promptly are getting only cumulative losses as they are following the correct way. The genuine manufacturers are incurring losses. Like that many industries are getting sick. So I request the hon. Minister to consider all these facts and rectify the lacunae. With these words I conclude,

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilwara): Mr. Chairman, Sir, I support the Central Duties of Excise (Retrospective Exemption) Bill, 1986. I would like to bring two or three points to the notice of the hon. Minister. As the exemption will have retrospective effect, so in this regard I have a doubt. Exemption is being given to the industries with retrospective

effect but they have already charged excise duty from consumers like us. Now it is the after thought of the Government that the statutory rates of duties were higher than the then effective rates and as a result of it the retrospective exemption of the difference between the rates of duty then effective and the proposed tariff is proposed to be given. It gives dual benefit to the industries because they have charged it from the consumers and now the Government have also exempted them. So, why are you giving benefits to the big companies? Had this money been in the Government exchequer, it would certainly have been utilised for the national development. You have deprived the Government exchequer and also charged from us. I think this is not proper. I feel you should make provision to collect that excise duty which has already been collected from the consumers, so that it may go to the Government exchequer.

16.00 hrs.

Secondly I would like to say that the big monopoly Houses have already been indulging in excise duty evasion. For example, the Bhilwara Spinning Mill at Bhilwara, which was producing polyester textiles, was running in loss of crores of rupees and was becoming sick. But it had not paid excise duty and increased the prices of its textile products. If you look into their accounts, you will find that it has earned a lot of profit. You have not taken any steps against such excise duty evaders. Rather the big companies are taking advantage of your exemptions which is causing great loss to the Government and the people are being looted. They do not deposit money into the Government exchequer. Therefore, you should at least conduct an enquiry into the accounts of this company to find out as to how much excise duty was evaded and who had helped it in doing so. You are giving benefits with retrospective effect on various articles by giving duty exemption but they have not paid it on various other articles. It appears that some influential people of big houses have succeeded in getting exemption by this way, but you have not given any benefit of this exemption to the poor people of small companies, small scale industries and medium scale sector.

This policy of discrimination is not good. As a result of it, the rich are becoming richer and the poor are becoming poorer. It is all due to the Government's policies that ten to twenty big companies are continuously increasing their assets because the Government is providing facilities to them. Therefore, you should take concrete steps to check this. You say and the Hon. Prime Minister also says that we believe in socialistic pattern, so we should change our policies and strong steps should be taken against the big capitalists who are governed by the M.R.T.P. Act so that they may not evade excise duty and may not loot the people. These two points I wanted to bring to your notice. These industries are taking dual benefit as they have charged the excise duty from the consumers and now getting exemptions. So I want that at least the duty charged from the consumers should go into the Government exchequer so that the common people may not suffer this double loss. With these words, I support this Bill.

[English]

SHRI AMAL DATTA (Diamond Harbour): Mr. Chairman, Sir, the Government has been forced to bring this particular Bill because it does not have the power to give retrospective effect to the notifications giving exemptions under the Central Excise Act. The whole thing is somewhat misconceived and the power which is exercised by the Government under the Central Excise Rules for giving exemption is an arbitrary exercise of power which has been delegated by the Legislatures and the Parliament to the executives. This aspect is something which has been drawing the attention of the Public Accounts Committee since as long ago as 1969. Even the Public Accounts Committee of the Fourth Lok Sabha made very adverse comments upon the way in which the executive was giving exemptions under the rules and in exercise of powers granted to them by Parliament. They also said that well-defined criteria should be laid down. The 111th Report of the PAC (Fourth Lok Sabha) in its recommendation 1.25 says,

“The Committee feel that the

[Shri Amal Dutta]

existing position in regard to grant of exemptions by the executive through notifications or special orders leave a lot to be desired."

Further, it suggests :

"The power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria which should, if possible, be written into the Central Excise Act."

Then again, there is another recommendation of the PAC in the same report :

"No exemption should be given without an assessment of its financial implications in so far as they can be determined. The monetary implications of the notifications, where determinable, should also be indicated in the memorandum appended to the notifications at the time they are placed before Parliament."

These are very well-considered recommendations of the Public Accounts Committee, which even till date have not been accepted, in spite of the fact that the PAC has been reiterating these recommendations in every Parliament.

PROF. N. G. RANGA (Guntur) :
What about the present Bill ?

SHRI AMAL DATTA : This is only to give retrospective effect because they do not have powers under the rules to give retrospective effect.

In the Fifth Lok Sabha, the Public Accounts Committee in its 31st Report in paragraph 1.13 recommended *inter alia* :

"The Committee are convinced that it should be possible for Government to obtain Parliamentary approval at least in

cases where the revenue involved by issuing notifications under Rule 8(1) of the Central Excise Rules is substantial or when the exemption notifications have a recurring effect on revenue or where the exemptions could be postponed. They accordingly desire that this should be acted upon."

But the Government did nothing.

In the Fifth Lok Sabha, in another report for the consideration of the Action taken by the Government, the Committee observed :

"The Committee have been informed that during the period January 1968 to February 1974, a total quantity of 1.07 lakh metric tonnes of ethyl alcohol had been imported from abroad..."

This is for the Customs. They follow the same procedure.

"The duty payable on these imports calculated under item 22(4) ICT works out to Rs. 1015.49 crores. That such a staggeringly large sum of customs revenue should have been foregone during a short span of six years would indicate that at present the executive enjoys the unfettered right to grant exemptions from duty."

Then the Committee recommends :

"Having regard to the points now brought to light in the case and also having regard to the administration considerations, the Committee would suggest that individual exemptions under Section 25(2) of the Customs Act in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament."

But this has not yet been done. These

are the suggestions of the Fifth Lok Sabha's PAC. Then again, the PAC of the Fifth Lok Sabha reiterated these recommendations in its 177th Report in paragraphs 15.15 and 15.16.

There they recommended—I quote :

“The Committee have been informed by the Ministry of Finance, in the Action Taken Note, that it was not possible to spell out any definite guidelines in law with regard to the power of exemption...”

Government straightaway said that; and then the Committee observes that they...

“are unable to accept the contention of the Ministry. The Committee are of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be re-examined in detail by Government and specific guidelines prescribed in this regard.”

Then in the same Report, the Committee goes on to say—and I quote :

“The Committee are perturbed at prolonged indifference to their earlier findings and strongly reiterate another earlier recommendation of theirs contained in paragraph 1.13 of their 31st Report (Fifth Lok Sabha)...”

Then again I quote—

“...Keeping in view the administrative constraints in this regard, the Committee would suggest that all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given only with the prior approval of Parliament”.

In effect, the Committee said this at that time—i. e. of the 4th and 5th Lok Sabha. They said that in respect of Customs they would lay down a limit of Rs. 10 crores, and in respect of Excise Rs. 1 crore. Such exemptions can be given only after taking prior approval from Parliament, and not by way of notification, under the rules.

The PAC then during the 6th Lok Sabha again went on to reiterate the same thing. I will not read the whole thing; it is too big. But in the 13th Report, at paragraphs 11.43 to 11.45 the Committee in effect suggested that—

“...with a view to have some monetary or Parliamentary control where the question of substantial loss of revenue to the exchequer is involved the prior permission of Parliament should be taken, in every case where the loss of revenue is above a certain limit. And then, it is said here that the Committee would like to examine whether it is possible to implement the recommendations wherever a substantial loss is involved, and they set in the ceiling limit of Rs. 1 crore in respect of Excise duty. If any notification involves a loss of revenue to the extent of Rs. 1 crore or more, that should be done only after taking prior permission of Parliament.

PROF. N. G. RANGA : Do you say that every case has got to be brought to the notice of Parliament, and that Parliament has got to take a decision ? Is it what you say ?

SHRI AMAL DATTA : Yes; when it is more than Rs. 1 crore.

PROF. N. G. RANGA : Every time it has to be brought before the House : is it so ?

SHRI AMAL DATTA : Yes.

PROF. N. G. RANGA : Then spell out the procedure. (*Interruptions*) Parliament would then be in session throughout the year.

SHRI AMAL DATTA : Not necessarily; it can be done later. But it has to be brought before Parliament. I am just quoting from the report of the PAC which is a Committee of the House. (*Interruptions*) Please don't argue with me, because I am only quoting from the of PAC.

SHRI P. KOLANDAIVELU (Gopichettipalayam) : You can lay it on the Table of the House.

SHRI AMAL DATTA : The Reports were made long ago. They have been laid on the Table long ago. They have been buried. I am just taking them out from the grave. Even the Estimates Committee has given similar views in its 28th Report—during 6th Lok Sabha, on the subject. In paragraphs 3.125 and 3.126 it has observed—I quote :

“The Committee feel that if at all necessary, Government should exercise the power to grant exemptions very sparingly and in extreme cases only. The Committee would also like that the notifications of exemption should be subject to modification or annulment by Parliament within a stipulated period and a suitable provision to this effect should be made in the parent Act.”

This provision is not there in the Excise Act although it is there in the Customs Act. So while in the Customs Act once said, power has been given to Parliament for annulment of the notification; it is not there in the Excise Act and hence the recommendations of the PAC and the Estimates Committee that such power should be incorporated in the Excise Act. That also has not been accepted by the Government. They are so obstinate in this matter.

Then in the Sixth Lok Sabha, PAC 146th Report, Paras 1.9 to 1.10 read as follows :

“The Committee would like the Government to examine the question of making similar statutory provisions on the Excise side as well. The Committee also

firmly believe that the power given to the executive to modify the effect of the statutory tariff should be regulated by a well-defined criteria in consultation with the Comptroller and Auditor General of India, keeping in view all the earlier recommendations made by the Committee in this regard.”

Then in the 4th, 5th and 6th Lok Sabha, they have gone on reiterating the same thing. (*Interruptions*) Please do not argue with me. I am simply quoting the recommendations of the Committees. Then in the 7th Lok Sabha, PAC Report (105th) in para 2.36, it reads as follows :

“The need for some guidelines is still more necessary in view of the fact that the revenue foregone as a result of these exemptions have increased from 9.44 crores in 1976-77 to as much as 245.18 crores in 1979-80.”

This is being given away by the exercise of power under the notification by the executive which is supposed to be enjoined under delegated authority. Then para 1.64 of the PAC 195th Report (Seventh Lok Sabha) reads as follows :

“The Committee reiterate that guidelines clearly spelling out the circumstances in which the power to grant exemptions can be exercised by the Executive should be laid down without any further delay.”

So, the Committee is again and again saying that there should be well-defined criteria, guidelines under which power to

give exemption can be exercised. Government has been consistently refusing to do so, and the Committee is reiterating its own recommendations in this behalf. The Committee has been saying that more than Rs. 100 crores in respect of excise and more than Rs. 10 crores in respect of customs, if such financial losses are involved, then such notification should be issued only after getting permission from the Parliament which government has not approved.

Lastly, in the Seventh Lok Sabha, the Committee has practically thrown up its hands and said that it is not just possible for the PAC to keep a watch on both the receipts and expenditure side and recommended that there should be two separate independent Public Accounts Committees—one to keep a watch on the receipt and another to keep a watch on the expenditure. Then again the government has not accepted the recommendation.

Today, what is happening is that by way of notification under Customs and Excise rules, the amounts exempted in the year 1983-84 to 1985-86 are as follows : In respect of excise, in 1983-84, it is Rs. 250 crores; in 1984-85, it is Rs. 293 crores; in 1985-86, it is Rs. 380 crores, which happen to be 2.93 per cent of the total revenue from excise and customs; and under customs rules. In the same way, exemption has been given in 1983-84 to Rs. 865 crores; in 1984-85, it was Rs. 990 crores. In 1985-86 it was Rs. 1550 crores which means 16.62 per cent and if you compare with the annual revenues of the Government, it is 4.5, 4.5 and 5.3 per cent of the entire Government revenue in the years 1983-84, 1984-85 and 1985-86 respectively. This is a tremendous power which has been given by way of delegated legislation to the executive and it is unfettered. Above all, there are no guidelines according to the Government's own admission. Again and again the PAC has urged upon the Government to issue guidelines, to get the prior approval etc. but they have done nothing of that kind. And now they have come forward with a Bill to give it retrospective effect. I am only happy to this extent that they have not tried to give a gener-

alized retrospective effect so that all notifications may be given retrospective effect. I am happy to this extent but I think this whole thing is a very bad practice. It takes away from Parliament, the power and puts arbitrary power in the hands of the Government, or the executive. I have just now given the figures to show to what extent power was exercised by the executive, without any consultation with the Parliament—Parliament has not been told about it, what was the implication of the notification and so on. This should not be done like that. I request the Government, and the hon. Minister, to go through the recommendations given by the PAC right from the Fourth Lok Sabha up to the Seventh Lok Sabha, and the PAC in its wisdom had recommended which reiterated again and again, and in spite of that the Government has not been accepting those recommendations. I once again request the hon. Minister to please go through them, consider them and implement them.

[Translation]

DR. G. S. RAJHANS (Jhanjharpur) : Sir, I support this Bill. The fact is that there is nothing much to say on this Bill. But it is true that for the excise which has already been paid by the consumers, you are giving exemption to big capitalists, mill-owners, industrialists and traders with retrospective effect. How that benefits the consumers, this I fail to understand. If you go on recovering taxes from the consumers and giving their benefits, with retrospective effect, to the industrialists and traders year after year, then socialism will remain merely a slogan.

As the saying goes, justice should not be only done, it should also appear to have been done. By exempting the excise duty, it is the consumer who is adversely affected because he has already paid to the traders who are doubly benefited with the exemption. In this country, cases of bungling and dishonesty in excise outnumber all other cases.

You may be observing that in the market the same article is sold at different

[Dr. G. S. Rajhans]

prices at different places. One of the reason for the same articles being sold at lower rates is that with the connivance of the officers these articles are taken out of the factory in the darkness of the night and are sold in the market. If the excise-paid article is sold at Rs. 100, then the article for which excise has not been paid will be sold at Rs. 80. You will think that it is a spurious one but that is not so. In this way, crores of rupees worth excise is evaded. Major part of the black money about which we discuss, comes from the excise evasion. But any article, you will find people who can manage to take things out of the factory.

Where excise duty is charged, whether it is Central excise or State excise duty. Excise officers are posted and it is expected that the products will come out of the factory under their supervision but what happens is that they collude with the mill-owners and throwing dust into everyone's eyes manage to take the products out of the factory. Who suffers on this account? It is the people and the Government who stand to suffer. The tax money which is to accrue to the Government is not received. Therefore, I would say that the issue of excise is not as simple as it appears to be.

Through this Bill, you are giving exemption in excise duty with retrospect effect and it is good, but I would say that there is need to educate the people... *(Interruptions)* I support the Bill but I would say that in future you should not give benefit with retrospective effect, because thereby the consumer suffer.

In this connection, I would like to say one thing more. In the market a confusion has been created in respect of MODVAT. The traders are fleecing the people in the name of the modified value added tax which you have imposed. Whatever thing you go to buy, it will be said that the price of that item has increased due to MODVAT. The common man has not been able to grasp the concept of MODVAT. Therefore, I request that you should educate the people about

MODVAT. You should tell them as to what the MODVAT scheme is and that it is really beneficial for the people. The fact is that the traders are taking advantage of the complicated terminology and fooling the people and looting them with both the hands.

In conclusion, I would say one thing more. You must catch hold of the rich and the industrialists but at the same time why those officers are not apprehended who are hand in glove with the industrialists and are looting the people? We would like to know as to what is the number of cases where industrialists or officers have been jailed? Government must provide such a statement to the Members of Parliament. When the officers see that they will be apprehended, they resign but will the tax evasion of crores of rupees stop by their resigning? Ultimately, the burden of tax falls on the people. Therefore, I would say that the guilty must be given the severest punishment. This is my only submission.

[English]

SHRI V. S. KRISHNA IYER (Bangalore South): During last winter we adopted the Central Excise Tariff Act, 1985 proposing for a new tariff nomenclature as also rates of duties of excise, based on the recommendations made by the technical study group. That again was based on the recommendation of the International Convention of the Harmonised Commodities Description and Coding System. We had unanimously supported that Bill. Simultaneously, two other Bills were passed giving effect to consequential changes in the Act. We were told at that time that the existing duty structure, as far as possible, would be preserved. We were also told that whenever the rates are higher, the notification giving exemption will be issued. But today, to our surprise, instead of being prospective, these notifications are issued as retrospective. I would like to know from the hon. Minister as to who pays the excise duty. It is the consumer who pays the excise duty. It is not industrialists or the manufacturer who pays this duty,

though he deposits it with the Government. But from whom does he collect it? He collects it from the consumers. Nobody can escape from the excise duty because it is an indirect tax. Clause 2 of the Bill says :

“The duties of excise which have been collected, but which would not have been so collected if the said notification had been in force at all material times shall be refunded.”

You are refunding it to the manufacturer. You cannot give it to the individual consumer. Then whom does this law benefit? Does it benefit the Government or the common man? It benefits only the manufacturer or the industrialists whosoever he may be. I fail to understand on what basis Government has brought forward this Bill.

While speaking on the original Bill some of us mentioned in this House how the manufactures try to deceive the Government and the public. In many cases, they can get the assistance of very expert lawyers. If they find a lacuna in the Act, they go to the court and get decrees directing the Government to refund the amount. Even that refund will again go to the manufacturer. There also the public is deceived. So, I will request the hon. Minister to clearly state how it is going to benefit the Government or the common man. The entire amount benefits only the manufacturers or the industrialists. It is a simple piece of legislation, I know, but I am really surprised how Government thinks about this matter.

Another point which I would like to mention is about the excise duty. It is paid by the common man. During the last budget, the hon. Finance Minister was pleased to state in his Budget Speech and during the reply also that the weightage of excise duty will be minimised as far as possible. But there is no trace of it at all. Just now the hon. Member Shri Amal Datta has quoted the recommendations of the Public Accounts Committee to show how the Government is missing hundreds of crores of rupees by giving

exemptions. In this connection I would like to give one or two suggestions and would like the hon. Minister to reply on that. One is regarding the evasion of excise duty. How does it take place? In the case of a number of manufactured goods we find that even on the packing material the price of the article is mentioned but at the same time it is also mentioned ‘Central excise duty and sales-tax extra’. So, what is the amount to be paid? How could the consumer know what is the excise duty he has to pay. What is the actual duty payable by him? So, there the Government is deceived and the public is also deceived. We do not know how much does the manufacturer get and how much he pays to the Government. All these things we do not know. These suggestions were made by us even during the discussion on the main Bill last year but the hon. Minister has not come forward with any amendment to see that the loopholes are plugged because Central excise duty is a *Kalpavriksha* where crores and crores of rupees are collected. Maximum revenue we get from the Central excise tax. Whereas income-tax is paid only by those who are liable to pay it, the Central excise tax is paid by everybody. So, I would request the hon. Minister to take steps to plug the loopholes.

Another point which I would like to mention here is regarding the evasion of excise duty. Last year we were very very happy, and we complimented the Government also, that a number of raids had taken place. Everyday we were reading in the newspapers that such and such concern was raided. But nowadays it is not there at all. Has the evasion been completely stopped? Some of the senior officers were also severely dealt with. But nowadays we are not hearing anything at all. Are we to take it that everything is all right and they are collecting the Government revenue perfectly well? I request the Minister to say about this while replying, because, I have not read any item about this in the newspapers nowadays. Finally I would like to strongly endorse what the hon. CPM Member just now said. He said that there should not be unfettered discretion to Government, I

[Shri V. S. Krishna Iyer]

don't say that everything should come before Parliament. But there should be some guidelines; there should be some rules by which these sort of exemptions could be granted. You are giving thousands of crores of rupees worth of exemptions every year. Even in Customs also, crores of rupees worth of exemptions are being given. But no industry is absorbing the excise duty,—not even Tatas and Birlas are doing it. They collect it from the consumer. Government should come forward with some legislation to control and monitor the granting of exemptions. There should be a comprehensive legislation to this effect. Of course, Government has got the power to increase the excise duty whenever exigencies arise. We oppose that. Our opinion is that only Parliament should have the power to increase or to reduce the excise duty. But that is not before us today. Finally I would request the Minister to give us a convincing reply. It is the unanimous opinion of this House that this sort of giving exemptions retrospectively should go to the benefit of the Government or the common man and not for the benefit of a few manufacturers. With these words I conclude.

SHRI G. L. DOGRA (Udhampur) : I think this is an unnecessary Bill which has been brought before the House, as has been stated by various people. Excise duty is paid by the consumer. Sir, if the necessary promise made had been implemented from the very first day, no Bill would have been necessary at all. Even now they say that the extra duty paid will be refunded from the treasury. In other words, the man who has paid extra duty is entitled to withdrawal of the excess. If he is a manufacturer who has paid excise duty he has realised it from his customers, and the public in general, and the consumers. In any case, it is impossible to locate and help the real consumer who has ultimately paid the duty. So this thing generally benefits the manufacturer. He has realised the excise duty from the consumer and now he gets refund from the Government also. So, you are helping the manufacturer without

having the intention to do so. Sir, it was the duty of the concerned officials to have acted in time. They should have been more vigilant. They should have seen to it that nothing extra was charged. But they have seen to it that nothing extra was charged. But they have failed to do that. Because of the pressure of the manufacturers now they have made this proposal of giving certain notifications retrospective effect. These manufacturers have got access to the Excise Department. Under the pressure of these manufacturers they have made these proposals retrospectively. Under that pressure the officer made some representation to the Minister to keep the duty at the rate which was prevalent at the time of passing the previous Bill. Therefore, they proposed that these Notifications should be given retrospective effect and refund should be given to those who deposited extra excise duty. I would like to tell the hon. Minister that where the duty has been realised, it has actually been paid not by the man who actually deposited in the treasury, but by the actual consumer, so no refund should be given.

Sir, I would like to say that the hon. Minister should also pull up the concerned officials. It is not the Minister who calculates the duty, but it is the officials in the Ministry who do it. After all there is a Section in this Department which deals with it. There are a set of officials who do this job. It simply shows that they were not able to understand the implications of the Bill which they had brought at that time.

Secondly, the Notification which was issued was not issued in time and therefore they want us to give those Notifications retrospective effect. This is an attempt to bluff the Parliament to say that the duty which has been realised from the poor consumers should be refunded to the rich manufacturers. I do not know how the Minister who is in charge of this Department and who is very very vigilant, fell into this trap. At least this is not understandable. It is the poor man who pays, but the rich man gets refund and you still call it social justice. Is it this public order for which we stand? Is it

what we want to tell the people? The poor people who actually pay the duty, need every pie for the benefit of their families and by this device you are depriving them and also the Government of the money and paying it back to the rich people. I hope Mr. Poojary will see to it that wherever the refund can go to the consumers, it should be given, otherwise it should not be given. The commodity which is being consumed passes through so many hands in India. In rural India the consumer is a poor man. It is only the rich people who purchase articles either from the manufacturer or from the first dealer. Therefore, I would suggest to the hon. Minister that since he held out the promise, he has brought a Bill. But the refund should not go back to the manufacturers because in the income-tax the refund goes to the tax-payer but in excise, it is not possible to locate the actual person who bears the burden of the duty. The Government cannot hold that money in the treasury on behalf of the real consumer. Therefore, I would say, kindly see to this that the provisions of the Bill are not misused.

PROF. N.G. RANGA (Guntur): Mr. Chairman, I have only a few observations to make. There is much strength behind the observations made by our Communist friend that there should be some guidelines that Government should formulate and place before themselves and their administration, in their efforts to give exemption from these excise duty payments. The Public Accounts Committee has referred to this and has made a big report of how many hundreds of crores of rupees have been exempted in this manner over a long period of time and no action has been taken. But its recommendation are rather difficult to be implemented. One can see that whenever exemption is given, it may be brought to the notice of Parliament. But it may not be possible to bring before Parliament for its approval. It is not possible. That is why, I say, guidelines are the proper thing to be formulated and the Government would be able to judge every exemption that is recommended by their officers in the light of these guidelines.

Secondly, it is easy to say that all the

excise duties are being paid by the consumers. But it is not always so. Anyone who knows anything about the play of economic forces would be able to see and realise that sometimes it is the manufacturer who has got to pay. Sometimes it is the consumer and often it is both of them who have to pay duty. Many a time, manufacturers have got to adjust themselves to the imposition of these excise duties and in that way adjust their own production processes also. Nevertheless, whenever such exemptions are being given, Government will have to take care to see that the consumers, in future at least, would not be made to pay the whole of the excise duty, when they impose excise duty and then make their collections.

Thirdly, greater care has got to be taken to ensure that this excise duty collectors and their staff do not play mischief in collusion with the manufacturers. What steps they have to take and with what effect are yet to be seen. But Government would have to present from time to time, at least once a year, a report to Parliament as to what action is being taken in regard to imposition of discipline among their own excise collectors and staff.

Lastly, there are outlining areas like Northeast frontier or Kashmir also which is without railway communication. And the transport of commodity manufactured in those areas, especially in Kashmir to the rest of India is so very costly, some thought has got to be given as to what kind of concessions are to be given to the manufacturers who have their plants in Kashmir and such other areas also in order to enable them to compete with other manufacturers in the rest of India where communication is much better developed.

SHRIMATI GEETA MUKHERJEE (Panskura): Hon. Chairman, this Bill is indeed symbolic of the present Government's functioning and also, if I may say so, its class character. But it is interesting to note that excepting venerable Prof. Ranga, nobody in this House, those who spoke from the Treasury Benches, even

[Shrimati Geeta Mukherjee]

all of them, have to substantially reject this Bill. This has to be noted. It is a very interesting feature.

Why I say symbolic is, you see the situation. First we passed the Bill giving effect to some statutory rates and nomenclature of some commodities. It was first passed by Parliament. Why we passed it? It is said in the object of the Bill, that this may have to be modified. Why? Because the Government wanted the existing rate to be maintained so that no unintended rise takes place. The Government wanted all that. Then why did you get passed at that time that statutory provision? That was passed by the Parliament. Could it not be inspected and scrutinised at that very time?

Secondly, even now when they are going to bring this Bill, the really most interesting part is that they are not sure, or I do not know—they may be sure and hiding in any case but the object & reason says that it has not been found feasible to quantify, in precise terms, the amount of refund involved in this respect. It says, 'however, the amount of refund is not likely to exceed rupees five crores'. Again, another piece of *ad hocism*. One thing—you are asked to approve a measure which will give back an already realised excise duty to the manufacturers. I will come back to Prof. Ranga's contention, but I now take up the majority contention. This will be paid back to the manufacturers. May we know what are those goods in on which it was calculated and found that it is not likely to exceed Rs. 5 crores? So, all along the line there is *ad hocism* in this Bill which, I say, is the characteristic of the Government to day in every sphere of life.

As I said, in that process, the Parliament also is being denegated because it is a statutory provision that is sought to be changed. What is the necessity? All this exercise, or should I say, circus and trapeze work—what was the necessity for that? Why so much hurry for bringing in this Bill? What is being said here? It is claimed that on certain items the

statutory rates of duties were higher. How do the Government know? However, I quote from the Statement of Objects and Reasons:

"However, some of these exemption notifications could be issued only after the 1st day of March, 1986, when the impact of the duty changes came to be known to the Government either from the trade and industry or from the field officers."

Who told the Government that unintended rates have been given in the statutory provision? Please note that firstly it was the trade and industry and then the field officer. So the consumer never came in the picture. That is why I say here again unintended by whom? Unintended by the trade and industry and unintended may be by the officers who also go to support this trade and industry and surely what you are saying in reality unintended by the Government because you stand to buy this very class who would be benefited by this measure. All this *ad hocism* is not just mere *ad hocism*. There is a method in the madness. That is why I say that it also reveals the class character of this government. I would not agree that this refunding is necessary. If according to the statutory rates the duties have been taken already, what on earth must force the Parliament to give it back to those manufacturers. Every day we are hearing about resource constraints, and within those resource constraints, in this very year, it must be given back. Government could have waited till the next Budget to smoothen out everything, to convince the people and put before us as to what are the items. Nothing is given about the items or the manufacturers who would be the beneficiaries. I would say that, in this situation, it is not all necessary to refund whether it is Rs. 5 crores or whatever it may be, we do not know; Government themselves do not know what it will be. So, why is this statutory provision violated? For the sake of the interests of a few people, those who are in the sphere of manufacture and trade? I would also say that this is a very peculiar way, a cavalier way, of dealing with financial discipline. You talk of

long-term fiscal policy. My Lord ! Within one year all these aspects are being again and again changed, and the Parliament is forced to change by the majority of the ruling Party. What does this 'long term' mean then ? This 'long-term' perhaps refers to the interest of the big manufacturing class which the Government really represent. For that 'long-term', I would not vote.

I really sympathise with, without being sarcastic, and I really feel very deeply for those friends who from the other side have to utter one sentence "I support" whereas in their entire speech they oppose the Bill. I congratulate them on that score. After that one sentence 'I support' in the rest of their speeches they have said what they have really felt. I would make this request to the hon. Minister and also to the hon. Minister for Parliamentary Affairs. Let this Bill be placed for a conscience vote and then let us see how many of our friends on that side would vote for refund to the manufacturers. If this Bill is placed for a conscience vote, I am sure that it will be defeated immediately. (*Interruptions*) Therefore, I think that this refund provision is absolutely against the interests of the ordinary people, the consumers. Our venerable Prof. Ranga has gone away. He has tried, in his characteristic way, to educate us that always it is not the consumers who pay the excise duty, sometimes the manufacturers themselves pay, this and that. Had he been here, I would have told him in all modesty that whatever may be the form, the content is that all the manufacturers pass on the excise duty to the consumers in one way or the other. Not only that, as has been said, they go on cheating outright, by various means, by avoiding to pay even those rates which are statutorily fixed and which are intended to be paid. Therefore, I think, nobody should forget all this. I request instead of just throwing away Rs. 5 crores to the dust bin let this be given to education which we will be debating tomorrow. In any case do not make this kind of precedent in the House where you not only denigrate the Parliament but also cheat the consumers and make losses from the exchequer only for

the interest of the propertied class. Therefore, I thoroughly oppose the Bill and I urge that this Bill be given for a conscience vote.

SHRI HAROOBHAI MEHTA (Ahmedabad) : Sir, I am duty bound to support the Bill as it is placed by the Government but I am not sure whether it was quite necessary. On the one hand, we are after answering the claims made on behalf of the poor people by the usual slogan 'want of resources' and, on the other, when we have got resources of Rs 5 crores in the form of excise duty, we are giving it back to the manufacturers. If the Government wants to insist that Parliament should pass this Bill, then at least let me pray to the Government that henceforth when we come with some claims on behalf of the poor kindly do not say we do not have resources, otherwise the poormen will ask us to tell the Government that when they had resources they wasted it by giving back to the manufacturers.

Sir, my observation is not a voice in the wilderness. Even the Supreme Court and the High Courts have characterised the excise duty as an indirect taxation and from the time of Adam Smith till today nobody has characterised these duties as taxes payable by the manufacturers of the dealers.

Sir, when I used to defend the Central Government before the Gujarat High Court as senior standing counsel, I argued before the High Court and successfully that Central Excise is an indirect taxation. It is not borne by the manufacturer. Money paid by the manufacturer to the Government as Central Excise does not belong to the manufacturer.

Sir, Section 72 of the Contract Act provides for right of restitution. The Supreme Court as early as in 1959 pointed out to the Government that Section 72 requires to be amended. Today it is 1986. No step has been taken in this direction. Section 72 of the Contract Act gives right of restitution. It gives to the owner a right of restoration of money paid under a mistake and the owner means the original owner.

[Shri Haroobhai.Mehta]

Sir, Central Excise duty is not paid by the manufacturer from his pocket. He is in a sense the collecting agency for the Central Government. The consumers have to bear its burden. Now, therefore, when some excise duty is treated payable by the Government the manufacturer collects it from the consumers and pays to the Government. If that excise duty is withdrawn retrospectively then who should be the gainer. The consumer should be put to gain. Let us see what happened in the instant case. This pertains to the period between 3rd March, 1986 and 8th August, 1986. Some revised rates were applicable as on that day. Manufacturers, therefore, treated them as correct rates and the consumers were asked to pay according to that. After collecting that duty the amount was paid to the Government. Now if you want to give benefit of refund to anyone why should that benefit be not passed on the consumer.

17.05 hrs.

[MR. DEPUTY SPEAKER *in the chair*]

This Bill would be quite healthy and would be surely appreciated by all sections of the House, if the hon. Finance Minister tells us that it will be implied and if necessary, an express provision would be made to ensure that benefit of this retrospective amendment would be passed on to the consumers; either it shall be passed on to the consumers individually, or if it is not possible to locate individual consumers, then like what was done in the case of Nawabganj Sugar Mills and Shivshankar Dal Mills, as per the judgement of Supreme Court, the amount should be deposited in an equalization fund for the benefit of consumers. That equalization fund can be used to reduce the price, or let the money be retained by Government and utilised for the betterment, improvement and development of the industry itself, but no individual manufacturers should be allowed to get unjust enrichment on account of such retrospective effect.

There were three cases in the Gujarat

High Court. In the case of a Baroda company, manufacturing Agfa cameras Mr. Justice Bedarkar and Mr. Justice Rawani held that in cases of refund of excise duty, this being an indirect tax, even the civil court should mould the ultimate relief in such situations in keeping with the true spirit of Section 72 of the Contract Act. Restitution provided in Section 72 of the Contract Act means restitution of the illegal tax to the ultimate payer, who has borne the burnt of the payment. Secondly, in the case of Bharat Vijay Mills—it was a case concerning duty on blended yarn—the Division Bench consisting of Mr. Justice R. C. Mankad and Mr. Justice A. S. Qureshi of Gujarat High Court proceeded on the basis that the Central excise duty in that case was illegal. That was the basis accepted by the Central Government at that stage. Of course, an appeal is pending in the Supreme Court. The court said that keeping in view Section 72 of the Contract Act, the textile mills had not been able to show that there was any loss caused to them. The duty was presumed to have been collected from the consumers. The High Court rejected the claim for refund and the High Court said that notwithstanding the recovery of duty illegally, they allowed the Government to retain the amount already recovered. The amount ran into crores of rupees. The court said that the Government would retain this amount and utilize this in favour of the consumers by either reducing the excise duty in future, or not imposing any increase even if it was otherwise warranted. That is the power given to the Central Government by the Gujarat High Court by the aforesaid judgement.

In the third case of Calico Mills, a full Bench of the Gujarat consisting of Chief Justice Mr. M. P. Thakkar, Mr. Justice Ahmadi and Mr. Justice R. C. Mankad held that if any refund were required to be made, the same would have been directed to be made to the consumers. Whenever any remission or benefit is given in the matter of excise duty, let it be the policy of the Central Government to ensure that the benefit is passed on to the ultimate consumer. Whenever it is not possible to pass on to the ultimate consumers on account of practical difficulties, it should be deposited in some fund

like the price equalization fund or any other fund, in the interest of the consumers or general public.

In this connection, I have addressed a letter to the Prime Minister and the Prime Minister has been pleased to pass on that letter to the hon. Finance Minister and I am expecting a reply after a detailed study by the hon. Finance Minister in this behalf.

I feel duty bound to make an observation that in future the Government should come out with a scheme in order to ensure that no manufacturer gets windfall or unjust enrichment on account of refund or remission of excise duty and the ultimate beneficiary should be the consumer or the general public or the industry in general instead of a particular dealer or manufacturer, or dealers or manufacturers.

Sir, an examination of Section 72 of the Contract Act should be immediately undertaken.

With these observations, I hope the Government may not press this Bill. But if the Government decides to press this Bill, as I am duty bound, I shall support it.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY): Sir, this Bill has created some confusion. Unintended levy has caused unintended confusion in the House, even though it is not deliberate. Hon. member made an attempt to contribute very good suggestions. I have to face criticism too from some of the hon. members. The rich experience of our veteran leader Shri Ranga made claim to rebut some of the contentions that have been made by the hon. members from the opposition and he has rightly rebutted their arguments. Here, the hon. members may kindly recall the passing of the Central Excise Tariff Acts with two companion laws. As stated by Shri Krishna Iyer, it was applauded by the House because of the simplification of procedures and other good features. At that time, the Government promised and

indicated that because of this switching over to some other tariffs, if there were some anomaly, there would be rectification and measures would be introduced by means of notifications to rectify those anomalies. What had happened? The earlier excise tariff Acts contain items 1 to 67 in which various items were specified. Items which are not covered specifically in items 1 to 67 were covered under Item 68. When the new Act has been introduced, this item 68 has been removed and it has been reclassified and regrouped in different tariff schedules. What happened when it went to some other tariffs? I will just give an example of steam. In the case of steam upto 28th February, when this new Act came into operation, there was no excise duty. Steam is captively used for health and other reasons in factories. Upto 28th February 1986, there was no levy on it. But when it was regrouped, there was a levy. It was unintended because the Government's intention was not to levy. Unfortunately, it had happened. When a change takes place, this is bound to occur. So, the hon. members may kindly recall that after this thing, it is to fulfil the promise which has been given by us through this Parliament to the nation, that we would rectify if there are going to be such anomalies, we have taken this measure. We have promised to rectify this anomaly when it was represented to us by trade and industry. We started issuing notifications from 3rd March upto 8th August rectifying this anomaly. Hon. member, Shrimati Geeta Mukherjee made a remark that there should be a limit to our madness. I never expected such a remark from such an honourable and respected member from the opposition.

SHRIMATI GEETA MUKHERJEE: I have said that there is method even in madness.

SHRI JANARDHANA POOJARY: It is all right. We will bear it. Now, what is to be done here? As a responsible Government when we have promised to the Parliament, could we go back on that promise? It is not the intention of the Government to levy or impose any

[Shri Janardhana Poojary]

excise duty. It had happened only because of the switching over. What would have been the result of all this? During this short period, when there is this levy because of the change over, there would have been increase in the prices. The cost of production would have gone up. Ultimately, the consumer would have been burdened with that. In order to get rid of this, we have come up with this measure. I hope Parliament will appreciate this position.

SHRIMATI GEETA MUKHERJEE :
Where does the question of refund arise?

SHRI JANARDHANA POOJARY :
For the period when this unintended levy is there it has to be returned. (Interruptions) So, it is a onetime measure. From 8th August there will not be any retrospective effect for any notification; and that is how the rich experience of Prof. Ranga is going to clear our position—not in all cases, but where the consumer is paying i.e. in certain cases.

You have made a point as to why it has not been specified and what is the amount involved. There are so many items. Only when they are brought to our notice we can come to know of them, and when representations are received. It will not be more than Rs. 5 crores.

For the benefit of hon. Members, I would indicate what was the performance of the Government. Mr. Krishna Iyer stated that last year, a number of raids were conducted. Everybody was happy. Even Parliament applauded the performance of the Department of Revenue.

What was the achievement in 1985? We had achieved then an alltime record. I am giving you the latest figures: we collected Rs. 2616 crores, as against what was estimated in the Budget for 1985-86. Never had it happened earlier. We got more than what the Budget had estimated, from three fields, viz. Customs and

Excise, income-tax and the corporate sector. What is the performance this year? For the benefit of the hon. Members, I would say that here also we have collected, upto July, Rs. 1353 crores more than last year. If something unexpected does not happen, it is going to be a record this year also.

SHRI DINESH SINGH : Is it new collection, or from old dues compounded?

SHRI JANARDHANA POOJARY :
It is a collective effort. It was collected through court cases and from raids. We have taken steps.

I would also say this for the benefit of Mr. Krishna Iyer: he has come to know that raids were conducted, and has asked why we are not giving any publicity. This has been said in Parliament, and even in the Press: that unnecessary publicity is given whenever a raid is conducted. Prestige is involved. When we file chargesheets, we give full details. Before that, we say that a number of raids were conducted.

I would tell the hon. Member what has happened this year, and how many raids were conducted during 1985. In 1985, 7402 cases were detected. From the Central Excise point of view, I will give the figures. An amount of Rs. 340.83 lakhs was the tax evasion involved. Upto June this year, 2854 cases were there.

The amount involved is Rs. 344.56 crores. Already we have reached the last year's figure, the entire year. We are concentrating on big houses, not small people; and our attempt is not to allow big people to go scot free. This is the intention of the Parliament; this is the will of the nation. We are committed to that. Our effort is to take action against tax evaders, smugglers and blackmarketeers. What is the revenue collected? Let us not talk about only Rs. 5 crores. (Interruptions)

Even for West Bengal, when we made

efforts to collect more fund, more fund was given to West Bengal and to other States also. 85 per cent of the income tax goes to States; 45 per cent of the Union excise duty collected will go to the States. We have given as contribution from the Centre as share of your tax and other duties. It has gone to the State Governments the fund made available because of the efforts that are made. A point has been made that if there is a collusion of the officials, we should take action; not only that, we should not spare anybody.

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilwara): The officials are responsible for all this leakage. Accumulation of so much wealth is the result of this very leakage.

[English]

SHRI JANARDHANA POOJARY : I respect the views expressed by Vyasji. It is true that we should not spare these people also. We have taken action against them. We have prosecuted them. The exact number I am not having. I will supply to the hon. member if he so desires. I should not commit any mistake. That is why I am not furnishing the figure. We have taken action against the Income Tax Commissioner, Income Tax Officers and Collectors. Hon. members may not believe it, even Assistant Collectors, when they come from the airport they are waylaid and searched. Against them, action has been taken. At the same time, to the credit of the Department, when there is any good work done, when we see, with commitment some of the officers, efficient officers have worked, we also reward them. It is because of their efforts we are able to collect Rs. 2,616 crores in one year; it has never happened in the history of the country. Parliament and we all pat them on their back; they should be rewarded and words of appreciation should come from the respected lady hon. member like Shrimati Geeta Mukherjee. Not only that, there are other things also. The hon. member, Prof. Ranga, veteran leader, has got rich experience. He has

understood this point. That is why I request you not to condemn his point which has been put forward by him. That is why I tell you that steps have been taken to safeguard the interest of the consumers. It is not that we have anything against anybody.

I do not want to say anything about the PAC and EC Reports, because the hon. member is not here. Thank you.

MR. DEPUTY SPEAKER : The question is :

“That the Bill to provide for giving retrospective effect to certain notifications relating to exemption from duties of excise, be taken into consideration.”

The motion was adopted.

MR. DEPUTY SPEAKER : The House shall now take up clause-by-clause consideration of the Bill.

Clause 2—Retrospective effect for certain notifications

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : I beg to move :

Page 1, line 10,—

for “duties of excise at the”
substitute—

“duties of excise in respect of certain goods at the” (1)

Page 1, line 17,—

for “duties of excise at the”
substitute—

“duties of excise in respect of certain goods at the” (2)

Page 2, line 3,—

for “shall be deemed to have,”
substitut,—

[Shri Janardhana Poojary]

"shall, in so far as such notification relates to such goods, be deemed to have," (3)

MR. DEPUTY SPEAKER : The question is :

Page 1, line 10,—

for "duties of excise at the" substitute—

"duties of excise in respect of certain goods at the" (1)

Page 1, line 17,—

for "duties of excise at the" substitute—

"duties of excise in respect of certain goods at the" (2)

Page 2, line 3,—

for "shall be deemed to have," substitute—

' shall, in so far as such notification relates to such goods, be deemed to have," (3)

The motion was adopted.

MR. DEPUTY SPEAKER : The question is :

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

MR. DEPUTY SPEAKER : The question is :

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

The motion was adopted.

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

SHRI JANARDHANA POOJARY : Sir, I beg to move :

"That the Bill, as amended, be passed."

MR. DEPUTY SPEAKER : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

17.26 hrs.

ESSENTIAL COMMODITIES (AMENDMENT) BILL

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE MINISTRY OF FOOD AND CIVIL SUPPLIES (SHRI A. K. PANJA) : I beg to move :

"That the Bill further to amend the Essential Commodities Act, 1955, as passed by Rajya Sabha, be taken into consideration."

The short facts, if I may elucidate, it will be easy for the Members to appreciate them and the debate will be short.

Four provisions of the Essential Commodities Act, 1955, are sought to be amended by this amending Bill.

MR. DEPUTY SPEAKER : The time available is also five minutes.

SHRI A.K. PANJA : Under 6E as introduced in 1976, powers of the courts were taken away for releasing goods which have been seized by the Collector or by the departmental orders. But in that power there was no authority given for

seizure of the vehicle or the receptacle or the animal or any other conveyance which is carrying the essential commodities or offensive goods. Immediately applications are made by these alleged offenders for release of the vehicle pending the confiscation proceedings of the goods and the courts found very rightly, that no power was given under the Essential Commodities Act for confiscating the vehicle which itself is not an essential commodity. So, the court has to release it. Immediately in the next offence, we found that the same vehicle, same type of receptacle and the same type of conveyance being used. So, this amending bill is brought to see that the courts shall not have the power to release the vehicle until the final confiscation order in the proceedings of confiscation is made known. The authority in the meantime will remain with the Collector or the authorities concerned. Therefore, the provision to amend 6E is placed before the House for consideration.

The second one is, under the Public Demands Recovery Act. Arrears of Government dues were being collected as Land Revenue. It appears that in some States and Union Territories, there is no land revenue system and Government dues are recovered as public demand. Therefore, we have made a provision that government dues would be collected as a matter of public demand in such States/ Union Territories also where there is no land revenue system. This, so far as section 7A is concerned, is the amendment sought to be made.

The third one is about the interest charged for delayed payment of government dues at six per cent. Now the amendment is that the interest shall be charged at the rate of 15 per cent on such amount.

The last is that so far as the powers to lodge complaints are concerned, power was only with the Police Officer. Therefore, the Police Officer only had the power. If anything is found by anybody from the public, he used to lodge a complaint with the Police and the Police will

take it, or the department, the central Food and Civil Supplies or the State Food and Civil Supplies department will take it. If they found any complaint with the Police or with their other activities, the entire proceedings were delayed, the goods became stale, the price even though it is sold under the Collector's order, the reasonable price could not be obtained properly. Therefore, in addition to the Police, power is sought to be asked for by amending the Section 12AA to the officers authorised by the Central Government or by the State Government so that complaints can be lodged straight to the special court or to the authorities concerned for the purpose of taking action.

These are the four provisions which are sought to be amended by this amending Bill.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill further to amend the Essential Commodities Act, 1955, as passed by Rajya Sabha be taken into consideration."

Shri Manik Reddy.

[Translation]

*SHRI MANIK REDDY (Medak) : Mr. Deputy Speaker, Sir, I rise to support the Bill to amend the Essential Commodities Act of 1955. While moving the Bill the hon. Minister has stated that the amendment to the parent Act was necessary in order to make the parent Act more effective. This amendment plugs the loopholes of the parent Act which was being misused by anti-social elements like hoarders and blackmarketeers to subvert the law. This amendment confers the powers on the Government to seize or confiscate the vehicle, package or receptacle. It helps in quick disposal of the cases and hence I support it.

MR. DEPUTY SPEAKER : You can continue tomorrow.

*The speech was originally delivered in Telugu.

SHRI MANIK REDDY : Just two minutes Sir, I will complete my speech. Sir, this Bill also proposes to amend the Section 7A of the parent Act, increasing the interest imposed from 6% to 15%. It is a sure source of income since the interest imposed by the collectors should invariably be paid by the persons who violate the law. Hence this amount should be raised from 15% to 25%.

Sir, this amendment confers more powers on Department officials. So there will be more temptation for officials to resort to corruption. Hence the Government should take all necessary precautions in this regard. Corruption should not be allowed to creep in. I hope the hon. Minister will take necessary and effective steps in this regard.

Sir, we are importing edible oil worth Rs. 1200 crores every year. Instead of importing, the Govt. should encourage production of edible oil within the country. Sir, we have a fertile land. Our farmers are hardworking. Government should encourage domestic production of edible oil. The Govt. should supply high yielding variety of oil seeds, fertilizers & pesticides at subsidised rates to the farmers. Water should be provided for cultivation of oil seeds by exploiting all the water resources. If all these steps are taken, I have no doubt that our country will become self-reliant in the production of edible oil. We can dispense with the imports which is costing us as much as Rs. 1200 crores every year. We can save our precious foreign exchange.

Sir, sugar is another important essential commodity. On an average every family in the country consumes 10 to 15 Kgs. of sugar every month. We often hear about the decline in production of sugar in the country. The reason for declining production of sugar is that the cane grower is not getting a remunerative price. Hence the Govt. should increase the price of sugar by 50 paise per Kg. If the price of Kg. of sugar goes up by 50 paise, the sugarcane grower in the country would get Rs. 50 more per tonne for his produce. It will boost the production of sugar in the country. So I request the hon.

Minister to consider the increasing of sugar price by 50 paise per Kg. in order to pay a remunerative price to the cane grower. I hope he would take steps in this direction soon.

Sir, there are 5 lakh 80 thousand villages in the country. But there are only 3 lakh and 20 thousand fair price shops functioning at present in the country. The remaining 2 lakhs and 60 thousand villages do not have fair price shops. The present norm of the Government is to have a fair price shop for every 2000 of our population. A poor agricultural worker works hard for the entire day to earn his daily wage. As the sun sets, he returns home with his wage. Then he has to trek 3 to 4 miles to the nearby village to purchase essential commodity from the fair price shop. One can imagine what his condition would be by the time he arrives home. Hence in order to benefit the millions of such rural poor, the Govt. should open a fair price shop in every village. It will not cost much to the exchequer. We know very well that our rural areas are very thinly populated and hence this norm of one fair price shop for 2000 of population should be dispensed with forthwith. I hope the Govt. would take immediate steps to provide a fair price shop in every village in the country.

Sir, the success of our public distribution system depends on perfect coordination of production, procurement, transportation, storage and distribution of essential commodities. The success or failure of the public distribution policy depends mainly on these factors. Hence the Govt. should ensure better coordination of these factors. Some far reaching and revolutionary steps are necessary to achieve this coordination. I hope, the Govt. would streamline its machinery for achieving this goal.

Sir, I thank you very much for giving me an opportunity to say a few words and conclude the speech.

17.35 hrs.

HALF-AN-HOUR DISCUSSION

[Translation]

Shifting of NTPC Unit from Murad-Nagar to Dadri

SHRI K. N. SINGH (Hapur): Mr. Deputy Speaker, Sir, I am thankful to you for the opportunity given to me to speak. A unit of the National Thermal Power Corporation was going to be set up in my area. For that, a period of two full years was spent on investigations and thereafter it was decided that Muradnagar area was quite suitable for this purpose, because the requirement of water for thermal power project could be met through the Ganga canal and the problem of ash content from the unit would be solved by the Hindon river which flows nearby. The land had been acquired and they started paying compensation also. But I do not know why all of a sudden the payment of compensation was stopped and a decision to shift the plant was taken. Had Shri Vasant Sathe been here, that would have been better because he was associated with the entire dispute. He had made certain commitments, that is why I had requested that his presence here was a must.

[English]

MR. DEPUTY SPEAKER: Madam is there. She will answer to your questions.

[Translation]

SHRI K. N. SINGH: As some decisions were taken between Shri Sathe and the farmers, the record of which is not available, so Shri Sathe's presence was necessary. The hon. Minister had committed that the plant would be set up in Muradnagar unless the Hon. Prime Minister himself decided otherwise. But all of a sudden the officers started shifting the material. After that we wrote a letter to the Hon. Prime Minister because the hon. Minister had said that only the

Prime Minister would arbitrate in this matter and his decision would be final. So, on the 24th March, 1986 we wrote a letter. A reply was received to that letter from Shrimati Sushila Rohtagi in the month of June. I want to submit that no development of any area can take place unless the people of the area were associated with that. Before the decision of shifting the plant was taken, the experts had already examined the proposal for two years and found that there could not be a better place for setting up this plant than this. But all of a sudden the officials thought of shifting it and they constituted a Committee on the issue of environment pollution which declared that this place was not suitable for this project. I may tell you that before this when in 1982-83 this plant was being set up, the local newspapers had opposed the move on the plea that it would create pollution. Then the same very officers had stated in September 1983 that it would not pollute the environment. They had said that the ash content from the plant would be disposed of in the Hindon river which is 2.5 to 3 kms wide. But I am sorry to say that now they have taken the plea that there is scope for pollution in the area. Mr. Deputy Speaker, Sir, through you, I want to submit that 1200 to 1300 acres of land was required for the project and about 500 acres had been acquired, out of which they had paid compensation for 60 acres at the rate of Rs. 39 per square yard. The State Government too had objected to this but you had said that this compensation was quite high. At that time, our farmers had clearly stated that whatever compensation you wanted to pay according to law, would be acceptable to them. It has been provided in the law also that compensation has to be paid after acquisition of the land. If we refuse, you may deposit the amount in the treasury and acquire the land. They did not do even this and wanted to take away the entire material to some other place. When our delegation met the hon. Minister, a deputation of the Corporation, which included technocrats, also met the hon. Minister. We were also present there. After an hour's hearing, the hon. Minister said that it appeared that what the Corporation was saying was not true.

[Shri K. N. Singh]

He said that this project would remain there but if the Prime Minister wanted then it could be shifted elsewhere. I want to tell you that there are no orders from the Prime Minister to shift this project. It is so because when we had lost the elections, Shrimati Indira Gandhi had first of all toured between Delhi and Haridwar. At that time, lakhs of farmers from Muradnagar had welcomed her and raised slogans of "Prime Minister Zinda-bad". Shrimati Indira Gandhi had said that she was then no more the Prime Minister, to which the people had replied that they deemed her to be the Prime Minister. They also told her that she was seeing the backwardness of the area and when she became the Prime Minister she should think of that area. She had said that she would take special care of that area on becoming the Prime Minister. Today Shrimati Indira Gandhi is no more. It was she who had given this project to Muradnagar and this project was started in her name. Now when she is no more, this project is being shifted elsewhere. The people of this area have their own history. In 1857 when the battle was fought against the Britishers, this was the area and these were the people who had fought against them. Today, these people are in a miserable condition and are poverty-ridden. I would like to submit that two or three excuses have been put forth for shifting the project. First is that for carrying coal they will have to construct three overhead bridges there. They also say that they have to pay higher compensation and where they are now shifting the project, they will not have to pay compensation. These are their pleas. When I asked them as to how they will dispose of the ash which comes out in hundreds of truckloads a day, they replied that the question did not arise. They said so to conceal the facts. The technocrats engaged in this work have made it a point of prestige. There is no other point in it. Between 1983 to 1986, some 500 acres of the farmers' land had been acquired and compensation had been paid for about 60 acres of land. No compensation has been given for the rest of the land. That land has been lying uncultivated for the

last three years because roads were being constructed and the areas were earmarked for housing projects and storages. That is why the farmers had sold their oxen and got their tubewells disconnected. They expected that they would get compensation for their lands, and their children would get employment in the project. The notices sent by the Government in this regard are with me and it is mentioned in them that they would be given compensation. Those people have been waiting for the last three years but I regret to say that they have not received any compensation so far. Therefore, I would like to make an appeal to the Government that this commitment was made by our late Prime Minister Shrimati Indira Gandhi, and the hon. lady Minister who held a senior position in her cabinet and who is still in this Department, should honour this commitment and this project should not be shifted elsewhere by taking advantage of their poverty. Otherwise, I think, the farmers of the area will perhaps not cooperate.

Sir, I would like to submit one more point. This Thermal Power Project is being set up to meet the requirements of Delhi. The entire power will be supplied to Delhi whereas the land of the farmers on which the project will be set up is in Ghaziabad in U. P. We have been told that we would get 10 per cent share of the total power generated as royalty. Our area is part of the National Capital Region. Our farmers are being deprived of their land to meet the needs of the capital city. The proper amount of compensation for the entire land would come to hardly about Rs. 30 or 40 crores which they have refused to give. The farmers from our area have approached you so that justice is done with them and the plant which was to be installed there is not shifted to any other place. The hon. Minister should assure us in this regard. Roads have already been constructed there and plenty of cement is lying there. Therefore, I am sure the hon. Minister will do justice with us.

Sir, another point which I would like

to make is that when they finally decided not to install this power plant there, then they set up a committee which said that it would not be proper to set up the project there due to environmental reasons. In this connection, I would like to say that had we or the farmers of that area been associated with that Committee, even then there would have been some satisfaction, but the fact is that when the dispute arose about compensation and when they took a decision to shift the project, only then a committee was set up quietly. They thought that the hand being more fertile, it would be better not to acquire it. Hence, I would say that injustice is being done with the farmers of this area. These technocrats are trying to take advantage of their poverty and illiteracy. Therefore, I appeal to you to intervene in the matter and honour the commitment made in this respect and try to save the people there who are very much worried for the past three years.

THE MINISTER OF STATE IN THE DEPARTMENT OF POWER AND MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS (SHRIMATI SUSHILA ROHTAGI) : Sir, our experienced colleague expressed his feelings with great anguish and had his views been based on facts, I would have agreed with him. He spoke about the farmers. There cannot be two opinions about it that it is due to the farmers that the country today is standing on its feet, it has become self-reliant in the matter of foodgrains and Green Revolution has been brought about. Our farmers have laboured hard braving the hot sun and cold winter, irrespective of the fact whether water, power or other amenities of life were available to them or not. The glory that our country has earned is all due to the farmers. I, therefore, agree with our colleague that full justice should be done unto the farmers. And this has been the very policy of our Government. The farmers have been able to elevate the country so much because the Government have been continuously endeavouring to help them by bring about new techniques and in other ways. But it is possible that our colleague may be having different facts than those available with us.

The first thing that I would like to say is that there has been no commitment on this issue. I have looked into the records carefully and I have not found it mentioned anywhere. Had there been any commitment, that would have been honoured under all circumstances. But the fact of any commitment has not been mentioned anywhere.

Besides, I would like to say that the national thermal power project, which has been mentioned, is a huge project. It would have an installed capacity of 240 megawatts and 840 megawatts in its first phase and by 1990 or 1991 it is hoped that the first unit of 210 megawatts would be commissioned and the remaining units would be commissioned at the rate of one unit each after every six months and that would constitute the first phase. Thereafter, the huge project of 1840 MW would come up in the country.

The hon. Member has said that a lot of time was taken at the initial stages of the formation of the plan itself, and at that time an assurance was given on the basis of which land was acquired. I would like to tell you that when the first feasibility report was received in 1982, then the Department of Power had called the representatives from different Government units and departments to deliberate upon the recommendations of the report, which included those from N.T.P.C., the coal sector, the Departments of Environment and Railways and the C.E.A. also. They made efforts to find out a suitable site somewhere. It was not limited to this alone but it was also thought that it should be—

[English]

—subject to detailed environment assessment being carried out for the recommended site.

[Translation]

So, from the very beginning, it was stipulated that the plant would be installed only subject to the approval of the

[Shrimati Sushila Rohtagi]

Ministry of Environment. This was a condition—subject to that proviso.

Our Minister of Environment is present here.

[English]

MR. DEPUTY SPEAKER : He is always available.

SHRIMATI SUSHILA ROHTAGI : Yes, he is always available. He is very kind. I must say that.

[Translation]

Our colleague is himself aware as to how much study of environment and ecology has been made in our country and how much harm has been done to our economy, to our human resources and our flora and fauna due to environmental factors like fellings of trees and pollution. The entire social structure has been affected thereby. As in shown in the films,

[English]

—it is not only the matter of mind but the matter of heart.

[Translation]

The process of development in every field has been adversely affected thereby. An 'Environmental Impact' study group was formed. I would submit that through this group the Government themselves want to ensure that nothing should be done which may harm the interests of the farmers, spread pollution and development work may be obstructed. Besides this, the Government scrutinises every project. And this being a major project, it was scrutinised in detail in the very beginning and after going into the matter thoroughly it was found that this new site is very near to Delhi and it also falls in between Ghaziabad and Delhi. Besides this, the Environment Ministry had also rejected the old site. There was a pre-condition

that if the Environment Ministry did not accept it, the proposal would be rejected and the power project would not be set up there. So, when the Environment Ministry said that this project should not be set up there and some another site should be selected for it, only then another site was selected for this purpose. The other site is also not very far from Delhi. That site is very near to the district of Kedarbhai and it is in Uttar Pradesh and is near to his constituency. Moreover, some of its area falls in his constituency. I would like to tell Kedarbhai for his information that this is not a question of constituency, because the constituency can be ours as well as theirs. All are affected by it. This is particularly related to the farmers. Notices were issued for acquisition of about 500 acres of land. In the meeting held on 10th January, the hon. Minister had intimated that out of the land notified for acquisition, compensation had been paid for 70 acres of land and the rest of the land was de-notified. Compensation for 70 acres of land was given at the rate of Rs. 2 lakh per acre. In the nearby areas, land was available at the rate of Rs. 30000 or 35000 per acre. When this land was acquired at the rate of Rs. 2 lakh per acre, no farmer was ready to part with his land. As a result thereof, the proposal of locating that plant was going to be stalled. As the project was very important and our power industry as well as the future of the country depended on it, the Government had to take immediate step. The farmers started speculating and they were not ready to part with their land on compensation less than Rs. 2 lakhs. Besides this, the Environment Ministry rejected it.

We also came to know that there were many advantages if we set up the plant at another nearby place in the same district. I would like to give details of those advantages to the hon. Member. The land which was selected earlier for locating the project is cultivable and this new land which has been selected now is not fertile and no crop is being grown there. It was said that cultivation was not being done on that land for the last 5 to 7 years and the people were not taking advantage of

the land. But we have no facts to substantiate this contention.

SHRI K.N. SINGH : I had not said this. I had said that the land which you had acquired earlier was lying unutilised for the past 3 years and no sowing had been done there.

SHRIMATI SUSHILA ROHTAGI : So far as our information goes, that land is fertile and cultivation is also being done there. So, we do not want to acquire that land on which crops are being grown. We have to select such land for the project which is small in size and which is a waste land. Besides, buildings will be constructed along with the plant and a township as well as industry will also be set up. This is why it was proposed to acquire such land which is not being cultivated.

There was another advantage that 50 per cent of the land belonged to the Government and it could be acquired without delay. It would not have taken years to acquire it and also it was near the railway track. The land which was going to be acquired earlier is 30 kilometers away from the railway track and this land is only 10 kilometers away from the track. I would like Kedarbhai to hear me attentively because money is saved in this way and also the matter is settled early.

I would like to say about the fly-over also. According to the information received by me, 6 fly-overs were needed on the land which was proposed to be acquired earlier whether it was for the railway line or for the major road. The site which has been selected now is not so costly and also it is near to the railway line. Besides this, only two fly-overs will have to be constructed here. All these things give a lot of advantages.

18.00 hrs.

Moreover, this land is somewhat level. The expenditure which is to be incurred on digging for levelling the land also makes some difference. Water is also available from the Upper Ganga Canal,

which is only two kilometres away. About a sum of Rs. 60 crores is expected to be saved thereby which is not so small an amount. So, this site is advantageous to our farmers, the project can be executed here expeditiously, it will not create pollution and also the Environment Ministry has cleared it.

[English]

The Ministry of Environment are satisfied and have cleared the new site for the power project.

[Translation]

When all these advantages were there, then it was decided that the power project should be set up here.

You have touched a very relevant point that what will be done to the ash. I had not tried to answer your question about ash is a lighter vein. You have been our experienced Minister and colleague.

[English]

"Does not arise; the project is yet to be set up".

[Translation]

The project has not been set up as yet. We have learnt that in Britain and other places some techniques have been developed under which the ash is piled up layer upon layer near the plant in such a way that trees can be grown up on that and even animals can go there. The place can be turned into greenery. Besides this, it does not spread pollution. We have come to know about one or two such projects and we are going to see them.

One thing more. This ash does not need vast land. There is no need to acquire land in a big way for this purpose. There is a place near the power project where it can be dumped layer upon layer and raised to a certain height. In this way it can be made beautiful and turned into

[Shrimati Sushila Rohtagi]

greenery by afforestation, plantation or vegetation as is done in U.K. Similar technique is proposed to be adopted here. Taking all these things into consideration, the Environment Ministry had recommended on 24th December 1985 that Dadri would be a suitable place for it and they unanimously agreed to it. After this, the Minister of Power, the Minister of Revenue of Uttar Pradesh and our Energy Minister held a meeting on 10th January 1986. It was decided in the meeting that the chairman of NTPC and the chairman of Electricity Board, U.P., should together look into the matter to decide what will be suitable for it. An expert committee was appointed and it was their opinion that it was a right step. On the 11th February, the Government gave it its formal approval. After all this, the matter was placed before you.

Probably you have put some questions regarding the World Bank. You might not have put the question today. But I would like to say how the question of approval arises in regard to the earlier proposal. Approval is given only when the proposal is cleared from every side—subject to approval by the Department of Environment. So, how it could be there about Muradnagar? When it was cleared from every side and when the Environment Ministry also cleared it, they recommended Dadri in the Development Forum. In my opinion the thing is.....
(Interruptions)...

[English]

DR. CHINTA MOHAN (Tirupati) :
It is political.

SHRIMATI SUSHILA ROHTAGI :
I do not think it is political at all...
(Interruptions)

DR. CHINTA MOHAN : Is it a fact that you are starting 26 NTPC units in the Amethi Constituency?

MR. DEPUTY SPEAKER : This is not Amethi Constituency that we are discussing now.

DR. CHINTA MOHAN : In Amethi, are you starting 26 NTPC units? Is it a

fact? How is environment more acceptable to start these units in Amethi? Why not have them in other backward areas?

MR. DEPUTY SPEAKER : This is not connected or relevant.

SHRIMATI SUSHILA ROHTAGI :
Sir, through you I would like to remind the hon. Member that sometimes he should be kind enough to dispossess his mind of Amethi and think of the national interest at large. This is something which is much more than Amethi, much more than Dadri, much more than Muradnagar. This is environment as a whole and what effect it is going to have on the quality of life. I will seek his assistance on that.

[Translation]

After all these things, a sum of Rs. one crore and six lakhs was spent on the acquisition of land. Another sum of Rs. 72 lakhs was also spent on the office arrangements and on providing other infrastructures. I know the hurt feelings of the hon. Member because of the fact that the proposed big project is not being set up there. But I assure you that we are certainly going to implement three other projects there. Firstly, N.T.P.C. intends to set up a Transmission Training Institute at Muradnagar. It requires 65 to 70 acres of land for this Institute which is available there. Workshop and Transmission towers will be set up for training purposes. Secondly, N.T.P.C. has also decided to set up the Main Earth Station with Satellite Communication at Muradnagar. Thirdly, N.T.P.C.'s office of Northern Region Transmission Line will be opened at Muradnagar to ensure close coordination with the U.P. Electricity Board Sub-Station, Muradnagar.

I am sorry to say that I do not have any information regarding the commitment mentioned by the hon. Member, otherwise I would not have hesitated in providing the facts.

So far as the farmers are concerned, I have to submit that this nation exists only due to the strength, support and the

aspiration of the farmers and I hope that my brothers will not take any such step or do such propaganda, as may lead to their demoralisation.

SHRI K.N. SINGH : Mr. Deputy Speaker, Sir the hon. Minister has tried beautifully to conceal her mistakes. You said that this project was to be set up after the clearance from the Environment Ministry. The investigations were carried on for two years. Then, buildings were constructed over there and according to my informations, Rs. 10 crores were spent there. If your engineers and technocrats knew that they had not got the clearance, then they should not have started the process of construction of buildings or acquisition of the land. *(Interruptions)*

So far, the hon. Minister has not told about the ash as to where does this go. You will do experiment, that is all right. But there is no provision for one rack of cool/ash which will turn out from there daily. So far as the fly-overs are concerned only four fly-overs were to be constructed there. *(Interruptions)*

[English]

MR. DEPUTY SPEAKER : You please only seek clarification.

SHRI K.N. SINGH : Mr. Sathe is not here today. He had made a commitment. Let Mr. Sathe come with an open announcement that he did not make a commitment.

[Translation]

SHRIMATI SUSHILA ROHTAGI :

Sir, I have answered all the three questions. I would like to make it clear that there is no question of misguiding any one from any political or technocrat point of view. I have presented facts before you and I want that you should look at it from another angle. *(Interruptions)* I have already told you that a compensation of Rs. one crore and 60 lakhs was given to the farmers.

[English]

Rs. 72 lakhs have been spent by N.T.P.C. for creating basic infrastructure facilities like office, construction of temporary roads etc. It was all that was done at that time.

[Translation]

Secondly, you said Rs. 10 crores whereas it is Rs. 72 lakhs only.

We are not looking towards Britain as we do not know less than any other country. Regarding the disposal of ash, I tell you that there is a project for this purpose at Nasik. *(Interruptions)*. If we are wiser at a cost of Rs. 72 lakhs, then it is not a costly. The problem was about the environment. There is an ash project at Nasik. So, it will be better if the hon. Member sheds any misgiving in this regard.

18.10 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, August 21, 1986/Sravana 29, 1908 (Saka)