

15.17 hrs

**The Lok Sabha re-assembled at seventeen minutes
past Fifteen of the Clock.**

(Shri P.H. Pandian in the Chair)

Title : Combined discussion on Statutory Resolution regarding Disapproval of Prevention of Terrorism (Second Ordinance (Resolution negatived) and Prevention of Terrorism Bill, 2002 (Bill passed).

MR. CHAIRMAN: Now, we will take up item no. 21, Statutory Resolution.

Shri Varkala Radhakrishnan – not present. Shri Ramji Lal Suman – not present. Shri Basu Deb Acharia – not present. Shri Mulayam Singh Yadav – not present.

Shri Ajoy Chakraborty.

SHRI AJAY CHAKRABORTY (BASIRHAT): Sir, I beg to move:

"That this House disapproves of the Prevention of Terrorism (Second) Ordinance, 2001 (No. 12 of 2001) promulgated by the President on 30 December, 2001. "

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): Sir, I beg to move:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and matters connected therewith, be taken into consideration. "

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, â€¦..

MR. CHAIRMAN: Your turn has passed.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I was inside the House.

MR. CHAIRMAN: I called you. Now, I have passed on to the next item.

SHRI L.K. ADVANI: Mr. Chairman, Sir, at this point of time, I do not want to say very much except to emphasise that there is a universal appreciation of the fact in almost all democracies that terrorism is a new kind of challenge to the security of a nation, a challenge for which the present legal regimes, the legislative regimes are inadequate.

It is this kind of universal realisation that was reflected even in the Security Council's Resolution adopted on 28th September, 2001 in which the Security Council asked its Member-States to proceed to legislate against terrorism, against financing of terrorism and against all the other crimes that were associated with it.

15.20 hrs (Mr. Deputy-Speaker in the Chair)

So far as we are concerned, even before this kind of Security Council Resolution came, we have been dealing with the problem of terrorism for nearly two decades, slightly less, but nearly two decades, more particularly after 1980. Though our neighbour conceived of waging a war against us through this instrumentality of terrorism shortly after its 1971 defeat and planned accordingly, but it took them some time to implement it. From 1980-81 onwards, first in Punjab, and from 1989 onwards in Jammu and Kashmir, and even in other parts of India, they have been waging a war against us which we rightly described as a proxy war. If there is an open war, the Constitution itself provides suspension of fundamental rights, and emergency is imposed. In a proxy war, we do not do that, but at the same time, wherever terrorism has been there, we thought of TADA (Terrorist and Disruptive Activities Act). Subsequently that TADA kept on being extended and, at one point of time, a situation came around 1995 when we allowed it to lapse. There were several reasons. I do not want to go into it.

Ever since I had been here in this office looking after problems of internal security, at every Conference where I have had interaction with those who look after security in their respective States, whether it is the Directors-General of Police, whether it is the intelligence people or occasionally even with Chief Ministers, there has been a demand 'that we should have some substitute for TADA; TADA was not properly used, there were distortions, there were lacunae in the law. So, let us do something.'

Therefore, it is that this Government thought it proper to refer the matter to the Law Commission of India and ask the Law Commission to consider the issue in all its aspects and make a recommendation. The Law Commission in

the year 2000 gave us a recommendation. It is the Hundred Seventy-third Report of the Law Commission, and it even gave us a draft Bill for consideration. Now, this draft Bill has been considered in a number of fora, in not only the Consultative Committee related to my Ministry, but also in the Chief Ministers' Conference, in the various conferences of police officials and, in fact, we took into cognizance even the Supreme Court judgement on TADA in which several shortcomings had been pointed out 'that if these shortcomings had not been there, then TADA would have been absolutely impeccable, but as it is, it is a shortcoming'. We incorporated all of them.

When the Security Council passed this Resolution in September 2001, shortly after that, the Government thought it proper to bring an Ordinance, which we call POTO. That Ordinance was sought to be converted into an Act in the Winter Session of Parliament, but as all Members are aware, on the 13th of December, an extraordinary event took place which only emphasised the need to have a law of this kind. However because of that incident, we could not complete the process of legislation and, therefore, that Ordinance had to be re-promulgated. Now, today, I have come to the House with a Bill which seeks to replace that Ordinance.

I appeal to all Members of the House, all parties of the House that we can differ on so many issues, like on what to do about Ayodhya; we can differ on what to do about economic liberalisation, on economic reforms or the Budget; but let us, on some issues particularly issues relating to security, particularly on issues relating to terrorism, be unanimous. Therefore, the hon. Prime Minister himself had convened a meeting of Opposition Parties where he appealed to them: "please do not oppose this proposal in toto. Make your recommendations; give us your suggestions". I can only say that whether they have come formally from your side or informally from your side, so much so that even the objections raised by the Human Rights Commission have been taken cognizance of and the new Bill is a Bill in which all the shortcomings that we experienced in case of TADA – perhaps the Executive at that time in the States or at the Centre sometimes was tempted to abuse – have been sought to be eliminated. The Bill has been brought which should be effective against terrorism but gives minimal scope of abuse. If there is any abuse, then there is always the Judiciary, the courts and the other agencies to take care of it.

Sir, with these words I commend the Bill to the House. If in course of today's debate there do come up certain suggestions which may be necessary to incorporate, I can only say that we view the whole matter with an open mind. We want to be effective against terrorists. We want to be effective against terrorism and at the same time see to it that human rights are not, in any way, violated. With this objective I hope that we would be able to pass this Bill.

MR. DEPUTY-SPEAKER: Motions moved:

"That this House disapproves of the Prevention of Terrorism (Second) Ordinance, 2001 (No. 12 of 2001) promulgated by the President on 30 December, 2001. "

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and matters connected therewith, be taken into consideration. "

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Mr. Deputy-Speaker, Sir, if you could kindly tell us as to at what time the voting on the Bill would take place, then it would facilitate the Members to be present during voting.

MR. DEPUTY-SPEAKER: It may be after six hours from now. Say, at 9.30 p.m. SHRI PRAMOD MAHAJAN: Sir, I do not mind any time. But the time must be known to the hon. Members of the House.

MR. DEPUTY-SPEAKER: It may be at around 9 p.m.

SHRI L.K. ADVANI: Sir, I would require 15 minutes to reply to the debate.

MR. DEPUTY-SPEAKER: So, the discussion would end at 8.45 p.m. Then the hon. Minister would take 15 minutes to reply to the debate and then the actual voting will take place at 9 p.m.

SHRI E. AHAMED (MANJERI): Sir, if more Members want to speak on this Bill, then they should also be allowed to speak.

MR. DEPUTY-SPEAKER: But they should be brief.

SHRI S. JAIPAL REDDY (MIRYALGUDA): Sir, I rise to oppose the POTO not to score mere debating points but to

make a last-ditch effort to dissuade the Treasury Benches. If I fail to convince the leaders of the Government to our viewpoint, then all our angst and our protest would be there on record for posterity.

Sir, we oppose it on four principal counts. First, it is destructive of the basic democratic liberties; second, it has been demonstrated empirically in our own country that this is a remedy worse than the malady; third, it has been prompted, I say this in all seriousness and in all sincerity, by malignant political motives; and fourth, it jettisons the basic established principles of criminal *jurisprudence* without a necessary protective shield.

Let me now start with my philosophical objections. Individual liberty is the supreme and sacrosanct liberty on which modern democracy is built. Any person, or any group of persons, who sacrifices individual liberty in the name of any philosophy rightist or leftist, in the name of country, race, or religion, is taking the country for a ride, or leading the country up the garden path.

I am reminded of the famous statement of a German Pastor Niemoller, who was a victim of Nazi regime, which was made after the defeat of Hitler and at the end of the Second World War. I quote: "First they came" Here 'they' refers to the Hitler's storm-troopers or policemen. Advani-ji! I would like you to hear. I still hope against hope to convert you. He said,

"First they came for Jews; and I did not speak out because I was not a Jew. Then they came for the Communists; and I did not speak out because I am not a Communist. Then they came for the trade unionists; and I did not speak out because I am not a trade unionist. Then they came for me; and there was none left to speak out."

This is the basis on which I propound my philosophical objections.

This law empowers the authorities to put anyone in jail without bail for one year. I personally regard Mahatma Gandhi as the greatest humanist of not the 20th century, but of the second millennium. In fact, I personally rate him on par with the prophets of yore, fathers of religions, and so on. Yet, I have no hesitation in stating that I would not trust Mahatma Gandhi with this kind of power. I say this because I am guided again by the famous dictum of Lord Acton, "Power corrupts. Absolute power corrupts absolutely".

What is the basic difference between democracy and all other forms of Government, be it monarchy, be it military dictatorship, whatever? Democracy is a form of Government which is based on healthy skepticism of the virtue of the person in office.

Sir, this law puts a frightening lot of power in the hands of policemen whom I am afraid are vying with politicians in notoriety. I am not saying that policemen are any less sacred than we are. After having stated my *a priori* objections, let me proceed to narrate my empirical problems.

Sir, there is nothing new about this law. It is a clone of TADA. A few cosmetic changes, which are claimed to have been made, have been more than offset by a number of new malevolent distortions. We had TADA for 10 years. When TADA was passed in both the Houses of Parliament in 1985, it was passed almost without any dissent because of the fact that all sections of the House wanted a strong law to deal with the situation prevailing at that time in Punjab. In those 10 years, various parties were in power both at the Centre and in the States and all those parties administered the law. It is therefore essential for us to evaluate our own collective experience and learn lessons from that experience.

What was the record of TADA during that period? The total number of detenus under TADA numbered around 76,000. Of these 25 per cent were dropped by the police without framing charges; trials were completed in only 35 per cent of the cases and 95 per cent of these trials ended in acquittals. The conviction rate was less than 1.5 per cent.

In Jammu & Kashmir where terrorism shows its ugliest face, in all, 20,000 cases were filed of which 11,000 were dropped. After preliminary investigations, 2,000 cases were dropped for lack of evidence. Around 3,000 detenus were either bailed out or freed on parole. As of today, only 778 cases are pending, involving 1,504 militants. These numbers show how TADA was totally ineffective.

If out of 76,000 only 1.5 per cent persons were convicted, what does that lead us to? It shows that 75,000 out of 76,000 persons were languishing in jail for years without bail and without conviction and perhaps many without a charge or a trial. Even in Punjab, the conviction rate was less than 1.5 per cent.

The law was used in Gujarat. In Gujarat, it was used against farmers, trade unionists and many others. In Gujarat, 19,000 people were booked under TADA.

In Assam there was a case against a 12 years' old boy for inciting trouble against the State. This was under TADA

in Assam against a 12-year old boy. Now, Advani ji is pleading for a consensus. We are not projecting his call for consensus for partisan considerations at all. We are not ideologically convinced about the utility or the efficacy of this draconian piece of legislation. What was the view of the leaders who are now Ministers in the Union Government of India? I quote Shri Yashwant Sinha speaking on May 11, 1989.

"I would like to go on record for posterity (the poor fellow was also going on record for posterity for me to quote) that if ever there was an Act which was a blot on the fair name of democracy it is this. By this Terrorists and Disruptive Activities Act of 1987 we have destroyed completely perhaps for all times to come what is known as the rule of law and the tragic situation is that we have destroyed the rule of law by an Act of Parliament. If the Rowlatt Act was not fit for human beings I wonder how TADA is fit for human beings. What could be a greater shock than that? What could be a greater blot on the name of democracy? "

I do not compare Rowlatt Act with TADA. I say that it is much more than the Rowlatt Act. You were, of course, at that time in the other Party. Let me quote a more distinguished Member of the BJP at that time, that is, in the same year 1989, Shri Jaswant Singh who is currently the Minister of External Affairs.

"I am totally opposing this legislation which my esteemed colleague Shri Yashwant Sinha has now repeated. This enactment in its origin was and how *ab initio* it was, unacceptable to me as an issue of principle. I find that this piece of legislation runs counter to every concept of civilised values. I do not think that the answer, therefore, lies in the continuous extension of this piece of legislation. Within the past two years we have not even managed to restrain it (meaning terrorism) and it runs unabated. I am not convinced it will ever serve the purpose. I oppose wholly the TADA (Amendment) Bill, 1989 "

Now, let me quote Shri George Fernandes. He said the following in 1991.

"It has now been proved that such a law cannot abolish any kind of violence or terrorism. It is essential to learn lessons from it. There should be no State terrorism, please note. Violence is no way to solve any problem. We must choose another way. This law is not going to solve any purpose. You are using a law not to abolish terrorism but to give a blow to democracy in the niche. This is not the appropriate way to get the country integrated and remove terrorism. Therefore, we are not at all in favour of enforcing this law."

Sir, now I will come to a more docile Member of the *Sangh*, who is now the Minister for Petroleum, Shri Ram Naik. He said in 1991:

"It seems that the Police Officers favour imposition of TADA because Police find it easy to apprehend the persons under TADA. People cannot raise their voice against the Police. If TADA is misused, we cannot extend our support to it."

Well, of course, there is the speech of Shri Ram Vilas Paswan. I do not want to take the time of the House in quoting it. I am aware that we are today debating with time constraint.

On 12th August, 1991 the following voted against the TADA (Amendment) Bill, 1991. Those who voted against the Bill include Shri L.K. Advani, Shri Bhuvan Chandra Khanduri, Shri Madan Lal Khurana, Shri Ram Naik and Shri Ram Vilas Paswan. They all voted against it in 1991. But now all these great libertarian leaders have become POTO-compliant and also POTO-genic!

What is the record of performance of this Government? Many people have referred to Kandahar. Therefore, I do not want to take the time of the House on that. The TADA failed to convict Omar Syed Sheikh under TADA and he had to be therefore surrendered or given up to Pakistan at Kandahar. Now the case of the Government is that 'POTO is not as draconian as TADA. We opposed TADA at that time because it was draconian; POTO is now more democratic'. They also say in the same breath 'look, the situation has since become much more serious. Do you not see that?' The question that I would like to raise is: 'How can a less draconian piece of legislation succeed in dealing with a more explosive situation in the country'? I want a short answer to this question.

It was being loosely said that even Shri Advani said at the National Executive of the BJP that all those who are opposed to POTO are in fact in favour of terrorism.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): This is not correct.

SHRI S. JAIPAL REDDY : At any rate, there was this kind of tendentious propaganda. Let Shri Advani rebut it. But, his Party did toe this line all across the country. Of course, we may be found wanting in the *Hindutva* patriotism. Maybe that propaganda in their view could be applicable to us. But, I challenge this Government to show one major national newspaper in the country which has not condemned POTO in all its amended forms. Every newspaper

starting from *The Indian Express*, *The Times of India*, *The Hindustan Times*, *The Statesman* to *The Hindu* has condemned it.

Should their opinion count for something at all? Should tendentious propaganda alone prevail in this country? Should the weighty intellectual opinion be taken into consideration at all? Sir, Shri Advani said in the course of his speech that the Law Commission recommended it. The Human Rights Commission opposed it in its latest incarnation after all the cosmetic changes have been introduced. It is a problem with this ruling troika. They are creating what I may call an Orwellian nightmare of the rightist country. While George Orwell wrote drama in 1994, he was referring to a leftist nightmare. You are creating a rightist nightmare. Sir, I am afraid and they are also in the process of fulfilling their prophesy. It is quite unintentional. I do not attribute any motives here. I would like to state another historical truth as I see.

15.52 hrs (Shri P.H. Pandian in the Chair)

The fundamentalist philosophy and fascist laws are Siamese twins. At one time after the report of the Law Commission, Shri Advani himself said publicly that he was not contemplating this law because the Opposition was unitedly opposed to it. But after 11th September, Shri Advani being an astute politician saw an enormous opportunity in that absolutely unfortunate incident. The first thing he did was to get SIMI banned under Unlawful Prevention Act of 1957. At that time, the Home Secretary said that there was no immediate provocation for the ban of SIMI but this was done by way of precaution. I am standing by what I have said and anybody can table a Privilege Motion against me. Though I am the Chairman of Privileges Committee, I can stand down. But Sir, after the SIMI was banned, it was on the 24th October, the Ordinance was promulgated. POTO was promulgated as an Ordinance. Why did you take six weeks? Why did you get POTO promulgated on the same day when the notice for the Winter Session was being issued? What was to be lost in six weeks when the Parliament could have discussed it with an open mind? Why did you want to confront the country with a

fait accompli? One thing good about Shri Advani is that he is both a practising politician and a running commentator.

Therefore, he said if the Parliament rejects POTO we stand to gain. If they accept POTO, we stand to gain. So, it is a win-win situation. POTO was projected as BJP's poll weapon in Uttar Pradesh. May I say, on record, that POTO was the only issue which was BJP-specific in U.P. and elsewhere. It is because they had chosen not to play upon the temple issue at that time for their own tactical reasons. What was the result? They lost in Punjab, and Uttaranchal. In Uttar Pradesh, their seats were reduced by half, they finished third. Where was this support for POTO? In three States we won. But in U.P. though we lost, BJP also lost. BJP lost in all the four States. I thought after these poll results, there would be some spiritual transmutation in the BJP because they all believe in spirituality and they swear by it. I did not think that they are unrepentant sinners.

My friend, Shri Arun Jaitley, in some articles and speeches, I also shared platform in some of the speeches he delivered, has said that 55,000 civilians and 6,000 policemen have been killed in the last fifty years due to terrorism. What we are facing is cross border terrorism and not terrorism. Of these, 55,000 civilians killed, ninety per cent of them belong to Jammu and Kashmir, Punjab and the North-East. Punjab was in the grip of terrorist movement. North-East has long been infested by one kind of terrorism or the other. But outside these three regions, which are peripheral regions, how many were killed? So, what we have to face is cross border terrorism. When it comes to countering or confronting cross border terrorism, we are with you squarely. We extend our unqualified and unstinted support.

Now, I come to some of the legal problems. I want my friend, Shri Arun Jaitley, to listen to some of my problems. First of all, there is no precise definition of terrorism. What has been defined is terrorist act and not terrorism. The terrorist act has been so indiscriminately described that it is a catch-all thing. Semantic sweep is so broad that it can lend itself to terrible abuse. Here I would like to make a point. In TADA there was a provision in the definition by which anybody promoting communal disaffection could be booked. Here the definition has been so cunningly crafted that a person or an organisation spreading disaffection would never be within the purview of POTO or POTA at all.

16.00 hrs.

I think this was a deliberate omission and not an inadvertent deletion. Since our Home Minister referred to the Resolution of the United Nations Security Council, I must tell him that the definition of terrorism in the U.K. Bill is more precise. If you are still upon-minded enough to accept our suggestion, let me read out the definition. It says:

"The use or threat of action where the use or threat is designed to influence the Government or intimidate

the public or a section of the public and the use or threat is made for the purpose of advancing a political, religious or ideological agenda.. "

This could be one safe definition of terrorism. Both the right extremists and left extremists can all be brought within the ambit of this definition. In the British statute, there is no provision for almost *de facto* reversal of burden of proof. I am using the word "*de facto*" because Shri Arun Jaitley will say that the burden of proof has not been reversed in this. Therefore, I am saying that it is *de facto* reversal. He also knows that in the British law, normal bail provisions are upheld. In Britain, in spite of this law, though the British police are famous for being smiling policemen yet many steps were taken against the policemen who were accused of having indulged in excesses under that Act. In 1995-96 alone, 495 actions were initiated against the U.K. police for alleged abuse of powers. In the same year, more than two million pounds were paid out in damages or settlements to the victims. The U.S. Law - I do not have to refer to it at all - applies only to aliens and it does not apply at all to the citizens. Even the aliens cannot be kept in jail for more than one week without a charge being framed.

I am referring to the US Patent Act, not about the Military Tribunals. In our country, there is no dearth of laws. We have any number of laws adorning our Statute Book except that they are gathering dust. We have the National Security Act already in the Statute Book. In addition, we have the Unlawful Activities Act. We have the Explosives Act. We have the Explosive Substances Act. We have the Armed Forces Act, 1958. We have the Suppression of Unlawful Activities Act. In fact, they are too many for me to enumerate. What our country requires is not a new draconian piece of legislation. What our country requires is a good Government. What we require is preventive vigilance through proper, sedulous intelligence gathering.

What we require is investigative diligence. What we require is prosecutorial perseverance, but after charge sheets are filed, our policemen forget though perseverance is required in the process of prosecution. Above all, what we require is effective governance. No draconian law is a substitute for effective governance. Apart from the system, what we require is inclusive politics, not exclusive politics and to practise inclusive politics, we require an integrative process, an integrative vision, and a wholistic vision. Though I am using so many expressions, I am sure the learned Members of the Treasury Benches would appreciate the points behind what I am saying. I am not elaborating on each point for the very simple reason that time would be lost.

It has been repeatedly pointed out that there are some objectionable, harsh provisions in the laws of Karnataka and Maharashtra. On behalf of the Congress Party, I take this opportunity to make an offer to the Government to eliminate all such harsh provisions in those laws, provided they withdraw POTO. Let them withdraw POTO and we are prepared to eliminate all such objectionable features. We believe such laws are not good.

What is the problem with TADA? They have brought too many laws under one law. I am again tempted to use my colourful phraseology. I would call this a highly toxic legislative cocktail. It is toxic cocktail. In TADA which, according to them, was draconian, there was no provision for banning organisations. If an organisation is to be banned, it would be banned only under Unlawful Provisions Act. Now, they have brought this under this law, with the result any Member of the banned organisation or any person suspected to be from a banned organisation could be brought within the ambit of POTO and all those penal consequences would follow.

Sir, I would like to draw the attention of the hon. Law Minister to Section 3 (1) (B) which brings in a number of banned organisations within the purview of this catch-all, hold-all Act. Now, through Section 3 (1) (A), they have brought in 'disruptive services'. It means that all the trade union activities of my Leftist friends could be described as 'disruptive services'. That is my interpretation. I would be happy if my interpretation is wrong. Then, bail provisions under Section 48 are such that a person could be kept in jail for almost one year.

Now confessions to our police officers and maybe our Ministers should not be admissible in evidence.

My friend, Shri Arun Jaitley will say: "Look, have you not seen the great change I have brought about?" A person can always go before the Judge and say: "Look, I have been subjected to physical torture." The Judge cannot inquire into that. He can only send him for medical examination. That is all. How does the scared fellow ever lodge a complaint with the Magistrate? Suppose he does it in one month and his charge is proved also, even then, he will languish in jail for one year. Is that a democratic provision? Whom does he want to deceive? I am sure, he is deceiving himself. They want to throw dust in the eyes of all those who are champions of civil liberties.

Now, he says, well, there is a Review Committee, not necessarily by a sitting Judge. Shri Advani, please note it. If a sitting Judge is chosen to head the Review Committee, the sitting Judge has to be chosen also by the Chief Justice of a High Court. If a State Government or the Central Government chooses a retired High Court Judge, as the Chief Minister of Gujarat did, you know what it means. All right; the retired High Court Judge also is a High Court Judge. It is fine. But the other two will be Executive nominees of the Government. The poor Judge will be outnumbered there. Why do you not say that the Review Committee will comprise a sitting Judge of the High Court with two District Judges as two other Members? The Review Committee will then have some teeth.

Take Section 30 regarding protection of witnesses. It disentitles the accused to receive the totality of statements made against him or the identity of witnesses. How does the accused defend himself when he does not know what statement you have made against him and who made those statements?

I am no champion of property. If it comes to a choice between liberty and property, my preference for liberty is instantaneous and infinite. But I believe that without some right to property, it is difficult to have liberty. Though social democrats believe, but without some right to property, there cannot be liberty. Liberty cannot be enjoyed.

Under Sections 6, 7 and 8, properties can be attached and confiscated in a very arbitrary fashion.

You are good enough to remove Section 38 because the journalists protested. I am happy they have done that. But Section 14 remains where journalists could always be interrogated and subjected to all the provisions of POTO on the ground that they have information about terrorists.

After having made all these suggestions, let me also make one last confession. This law is so flawed that it is beyond all understanding.

We have no option but to oppose it tooth and nail, lock stock and barrel.

श्री मोहन रावले (मुम्बई दक्षिण मध्य) : महाराष्ट्र में इनकी कांग्रेस की सरकार है। वहां अलग कानून है क्या? (व्यवधान)

MR. CHAIRMAN : You speak when your chance comes.

श्री प्रकाश मणि त्रिपाठी (देवरिया) : सभापति महोदय, आतंकवाद निवारण विधेयक 2002 का समर्थन करने के लिए मैं खड़ा हुआ हूँ और दुखी मन से खड़ा हुआ हूँ। यह दुर्भाग्य है कि जो कुछ हमारे देश में हो रहा है, जिस तरह से आतंकवाद बढ़ रहा है, संसद पर हमला हो चुका है, आज सवेरे इसके बारे में बहुत देर तक बात हुई है (व्यवधान)

SHRI S. JAIPAL REDDY : Sir, I would request the hon. Members not to disturb him.

श्री प्रकाश मणि त्रिपाठी (देवरिया) : आज सवेरे हमारे मुख्य प्रतिपक्ष के उपनेता बहुत भावुक हो गए थे। इतना भावुक मैंने इनको कभी नहीं देखा। और इतनी लंबी-चौड़ी बात, बहुत से अंग्रेजी के शब्द हमारी समझ में नहीं आते हैं हमारे दोस्त जयपाल रेड्डी जी के। लेकिन एक छोटे से सवाल का जवाब दें कि आप लोग सब आतंकवाद से लड़ना चाहते हैं, आतंकवाद को खत्म करना चाहते हैं, और उसको खत्म करने के लिए आप सरकार को हथियार क्यों नहीं देना चाहते हैं? अभी तक आपने कोई ऐसी बात नहीं कही जिसमें मुझको इस छोटे से सवाल का जवाब मिला हो। और यह विरोधाभास बिल्कुल साफ ज़ाहिर था। जयपाल जी जब बोल रहे थे तो यह ज़ाहिर था कि हम आतंकवाद के खिलाफ हैं लेकिन आतंकवाद के खिलाफ लड़ाई लड़ने के लिए विधेयक के भी खिलाफ हैं। यह विरोधाभास आप लोग अलग-अलग कारणों से कर रहे हैं, लेकिन जैसा कि आपने कहा कि आप चाह रहे हैं कि अगर सरकार मान जाए तो क्या मैं यह कहना चाहूँ और आपने यह भी कहा कि ऑर्डिनेन्स की ज़रूरत नहीं है, गुड गवर्नेन्स की ज़रूरत है। इसमें किसी को कोई एतराज नहीं है, लेकिन यह कहने की क्या ज़रूरत है। क्या जब टाडा पास हुआ था तो इसलिए हुआ था कि गुड गवर्नेन्स नहीं थी या ऑर्डिनेन्स की ज़रूरत थी? यह विरोधाभास जो है, हर चीज का सवाल जवाब आपके मन में है। सब लोग चाहते हैं कि आतंकवाद से लड़ें, हम लोग आतंकवाद को परास्त करें, लेकिन उसके लिए हथियार इस सरकार को नहीं देना चाहते हैं। यह ज़िद किसलिए है? वजह इसकी क्या है? हमारी तो समझ में नहीं आ रहा है, और आतंकवाद से हम और आप नहीं लड़ रहे हैं, जगह-जगह पर, सड़कों पर लोग लड़ रहे हैं और आप सब कहते हैं कि उन अर्द्ध सैनिक बलों को, उन सैनिकों को हम हर तरह की मदद देना चाहते हैं, तो क्या उस पर आप खरे उतर रहे हैं? दोनों हाथ उनके पीछे बाँधकर आप चाह रहे हैं कि वे आतंकवाद से लड़ाई करें। इस तरह से आतंकवाद से लड़ाई नहीं होगी। यहां मुख्य प्रतिपक्ष को मैं खास तौर से कहना चाहता हूँ कि 1985 में टाडा हुआ था। वह दो साल के लिए हुआ था, लेकिन आप लोगों ने उसको बढ़ाकर 10 साल तक रखा। 1995 में उसको खत्म किया।

सभापति महोदय, मैं आपके माध्यम से कहना चाहता हूँ कि इन लोगों ने ही यह बात कही और उसके खत्म होने से पहले एक मिनट के लिए भी ये नहीं चाहते थे कि यह देश कानून से वंचित रहे, क्योंकि क्रिमिनल अमेंडेमेंट बिल राज्य सभा में, इसके खत्म होने से पहले आपने पेश किया था। इससे यह सिद्ध हो जाता है कि आप नहीं चाहते हैं कि यह देश एक मिनट के लिए भी इस प्रकार के कानून से वंचित रहे। लेकिन आतंकवाद से लड़ने के लिए आप इस सरकार को कानून नहीं बनाने देना चाहते हैं, यह आपको गवारा नहीं और अब एकाएक यह कानून आपके लिए ड्रैकोनियन ला हो गया, सब कुछ हो गया। आप आतंकवाद से लड़ना चाहते हैं, लेकिन कानून नहीं बनाने देना चाहते हैं। आपके अभी तक के भाषण सुनने के बाद भी मेरी यह एक बात समझ में नहीं आई कि आप आखिर इस कानून के खिलाफ क्यों हैं।

सभापति महोदय, बहुत कोशिश करने के बाद कि आखिर बात क्या है, जैसे यहां पढ़ा जा रहा है, मैं इसमें कोई पाइंट स्कोर नहीं करना चाहता, लेकिन अगर यहां पढ़ने की बात है, तो बहुत पीछे जाने की ज़रूरत नहीं है, अभी विगत 17 जुलाई को ही होम मिनिस्ट्री की मीटिंग में गुलाम नबी आजाद जी ने जो कहा, मैं उसे उद्धृत करना चाहता हूँ-

"There is a need for a law to combat the growing menace of terrorism although TADA was misused. The Law Commission's proposed Prevention of Terrorism Bill has several good provisions for instance".

आपकी पार्टी के कर्ण सिंह जी ने कहा-

"There has been an exponential increase in terrorism especially in border States. It is being financed in an organised manner and we need a law to deal with international terrorism."

और सबको भूल जाइए, आपके उपनेता, प्रतिपक्ष, श्रीमान् शिवराज पाटिल जी ने कहा कि-

"We need changes in law to counter terrorism. The Indian Penal Code is inadequate and that was the reason why

TADA was enacted. The draft POTO is inadequate. "

लेकिन किसी ने इसकी खिलाफत नहीं की और मैं भी समझता हूँ कि इस वक्त व्यवधान

SHRI SHIVRAJ V. PATIL (LATUR): I am sorry. I think, you are reading only half of it and not full. I have said much more than that. ...*(Interruptions)*

श्री प्रकाश मणि त्रिपाठी : एग्जैक्ट जो आपने कहा है, वही मैं पढ़ रहा हूँ। इसका विरोध आपने उस मीटिंग में नहीं किया, यह मैं कहना चाहता हूँ।

आपके खुद के एलाईज ए.डी.एम.के. की सुश्री जय ललिता जी ने इसका स्वागत किया है क्योंकि वे भुक्तभोगी हैं और जो लोग भुक्तभोगी हैं, जो लोग कमरे में बैठकर चर्चा नहीं करते। वे समझते हैं कि यह बहुत वीभत्स घटना है और वह घटना आप लोगों के सामने यहां पर हुई थी। इस संबंध में प्रदेशों के मुख्य मंत्रियों से बात की गई है, तो आखिर वजह क्या है आप इसका क्यों विरोध कर रहे हैं। बहुत कुछ सोचने के बाद मैं इस नतीजे पर पहुंचा हूँ और स्वयं जयपाल जी ने इसका उल्लेख किया है कि टाडा का गलत इस्तेमाल किया गया। यहां हमारा काम विधेयक बनाना है, गवर्नमेंट का काम इस्तेमाल करना है और अगर टाडा का सबसे ज्यादा गलत इस्तेमाल हुआ तो उस वक्त के मुख्य मंत्री श्री चिमनभाई पटेल के जमाने में हुआ। यदि उन्होंने ऐसा किया तो क्या आप हमें दंडित करेंगे। यदि आप लोगों द्वारा ऐसा किया जाता है, तो यह बिलकुल गलत है। मुझे मालूम है कि सबसे ज्यादा गलत उस कानून का इस्तेमाल उन स्टेटों में हुआ जहां कांग्रेस की सरकारें थीं। मैं यह मानता हूँ कि हर प्रकार से इस कानून का गलत इस्तेमाल बन्द होना चाहिए।

महोदय, महाराष्ट्र में आतंकवाद विरोधी कानून है, कर्नाटक में आतंकवाद विरोधी कानून है और यह एक अजीब बात है कि अब ये कहते हैं कि अगर आप पोटो को हटा लें तो हम अपने आतंकवाद विरोधी कानून को भी उठा लेंगे। यह कोई बनिप की दुकान न

हीं है।

आप ऐसा कर दें तो मैं ऐसा कर दूंगा। अगर आपने महाराष्ट्र में बनाया है, कर्नाटक में बनाया है तो जरूरत महसूस करके बनाया है। एक शासकीय कार्यवाही हुई है और अगर हम पोटो की बात कर रहे हैं तो वह भी एक शासकीय कार्यवाही है, एक जरूरत की बात है।

यह सब मानेंगे कि 1995 के बाद से आज तक आतंकवाद का जो स्तर है, वह रोज बढ़ता जा रहा है। क्या हम यह समझे कि जिसने 1995 में इसके खिलाफ वोट किया था, वे आज भी पोटो को इस्तेमाल नहीं करने देंगे। यदि कल इससे ज्यादा हालात गंभीर हो गये तो क्या आप नया कानून नहीं लायेंगे ? इस मूल प्रश्न का मैं जवाब चाहता हूँ। आप आतंकवाद हटाना चाहते हैं लेकिन आतंकवाद विरोधी कानून भी पास नहीं कराना चाहते, इस विरोधाभास का जवाब हमको चाहिए। हम आपसे नहीं कह रहे, हम वामपंथी दलों को कह रहे हैं कि वह क्या वजह है जिसकी वजह से आप पोटो को वैस्ट बंगाल में लगाना चाहते हैं लेकिन यहां नहीं। आपने उसे वहां रोक दिया है। वह इसलिए रोक दिया ताकि आप यहां पर इसकी खिलाफत कर सकें। इसके अलावा यहां उसे रोकने का और कोई मतलब नहीं था। यह बिल्कुल साफ है कि उसे रोकना ताकि आप यहां पर उसकी खिलाफत कर सकें। यह अपने आप नहीं रूका है।

माननीय बुद्धदेव भट्टाचार्य जी ने उसकी जरूरत समझी है तभी वह इसको लेकर आये हैं। उसके बाद उन्होंने उसे वहां रोक दिया और कहा कि इसे थोड़ा रोक दो, पहले पोटो के खिलाफत कर लें, उसके बाद देखा जायेगा। आप लोगों से हमको इस बारे में बहुत ज्यादा निराशा नहीं है क्योंकि आपको हर चीज की खिलाफत करने की आदत है।

कभी-कभी हमको लगता है कि आप लोग अब सोच चुके हैं कि हम कभी सत्ता में नहीं आयेंगे। व्यवधान जब आदमी यह सोच लेता है कि सत्ता में नहीं आयेंगे तो गैरजिम्मेराना काम करने में कोई मुश्किल नहीं है, कोई परेशानी नहीं है। व्यवधान आपको मालूम है कि आप जहां भी सत्ता में हैं, वहां पर आप वही कानून लाने की कोशिश कर रहे हैं। व्यवधान

श्री हन्नान मोल्लाह (उलूबेरिया) : हमको जिम्मेदारी सीखने का कोई स्कोप नहीं है। व्यवधान

श्री प्रकाश मणि त्रिपाठी : मेरी राय यह है कि यहां पर सर्वसम्मत से पोटो का समर्थन करें और वहां भी पोटो बनाइये। हमको कोई एतराज नहीं है। समाजवादी पार्टी इसकी बहुत खिलाफत कर रही है। व्यवधान हम दांये रहें तो दांये की बात करें, दक्षिण रहें तो दक्षिण की बात करें और अगर उत्तर में रहें तो उत्तर की बात करें, ऐसी कोई जरूरत नहीं समझते। समाजवादी पार्टी क्यों इसका विरोध कर रही है ? हमारी समझ में यही आ रहा है। यहां पर उनकी पार्टी का कोई मैम्बर नहीं है लेकिन मैं उनसे पूछना चाहता था कि वह क्या चीज है, जिसका आप विरोध कर रहे हैं ?

एक चीज हमारी समझ में आई, वे बार-बार यह कह रहे हैं कि यह कानून किसी वर्ग विशेष के खिलाफ है। यह जो बातें फैलाई जा रही हैं, वे मेरे ख्याल में किसी राजनीतिक दल का काम नहीं है। उसके निर्माता कोई राजनीतिक दल नहीं हैं जो इसे फैला रहे हैं। आप लोग उसके शिकार हैं। किसी और ने इसे फैलाया है। वही टाडा जो 1985 में पास किया गया, किसी वर्ग विशेष के खिलाफ नहीं रहा। वही टाडा जो बार-बार हर दो साल बाद बढ़ाया गया, किसी वर्ग विशेष के खिलाफ नहीं रहा। लेकिन 1993 में जब बम विस्फोट हुआ और एक वर्ग विशेष के लोग पकड़े गये, वे शक्तिशाली थे और आज भी शक्तिशाली हैं। वे बाहर देश में रहकर भी यहां प्रभाव डाल रहे हैं। उन लोगों ने इसको राजनीतिक रंग दिया। उस समय उन लोगों ने कहा कि ये मुसलमान समुदाय के खिलाफ है। इसके साथ विपक्षी दल उसके शिकार हो गये। आप लोग इसके निर्माता नहीं हैं। इस मूल में आप मत रहिये कि यह आप लोगों का ख्याल है। यह ख्याल उन अराजक तत्वों का है जो इसे राजनीतिक मोड़ देना चाहते हैं। आप मुझे इस विधेयक में एक भी प्रोविजन ऐसा दिखा दें जो किसी वर्ग विशेष के खिलाफ हो तो उसे मैं यहां मानने के लिए तैयार हूँ।

बहुत सी बातें कही गई हैं कि टाडा का गलत इस्तेमाल होता है और मैं यह मानता हूँ कि इसका गलत इस्तेमाल नहीं होना चाहिए। यह देखना शासन का काम है कि इसका गलत इस्तेमाल नहीं होना चाहिए। लेकिन इसी बात को सोचते हुए इस विधेयक में खास तौर से आतंकवादी की परिभाषा दी गई है और वही श्री जयपाल जी की आलोचना का विषय हो गया। हमारे सामने पहली बार ऐसा कानून है जिसमें आतंकवादी गतिविधियों की परिभाषा की गई है जो एक व्यापक परिभाषा है। इसलिए कानून की गलत व्याख्या या दुरुपयोग किए जाने की कोई गुंजाइश नहीं रहेगी। अगर परिभाषा ठीक है, वह संकीर्ण है, एक जगह पर फोकस है तो उस हालत में उसका गलत इस्तेमाल करने की बहुत कम उम्मीद रहती है। यह बात सही है कि टाडा में परिभाषा इतनी व्यापक थी कि उसका गलत इस्तेमाल हो सकता था। इस बार उस की परिभाषा को बहुत अच्छी तरह से उद्घृत किया गया है।

दूसरी बात यह बताई गई थी कि एक साल तक जमानत नहीं हो सकती। यह बात सही है और यदि ऐसा कानून बनाया जाए जिसमें पांच दिन बाद आदमी आराम से रह सके तो उस का कोई अर्थ नहीं है क्योंकि आतंकवाद का मतलब आतंकी, यानी वह आतंक कर सकता है, उसने किया है और छूटने का मतलब यह है कि उसका छूटना ही आतंक का एक कारण हो सकता है। जैसे ही वह छूटेगा, उसे कुछ करने की जरूरत नहीं, अगर वह आतंकी है और उसे छोड़ दें तो वह स्वयं आतंक का कारण हो जाता है। इसलिए सालभर जब तक उस पर व्यापक रूप से दोगा सिद्ध न हो, तब तक छोड़ने की कोई जरूरत नहीं है।

गवाहों के संरक्षण के बारे में बात की गई है। मैं कहूंगा कि इस विधेयक में कमजोरी है और मैं गृह मंत्री जी से अनुरोध करूंगा कि इस कमजोरी को दूर करें। एक बहुत बड़ी कमजोरी यह है कि कोई भी विदेशी अवैध तरीके से हमारे देश में आए, अवैध हथियार लेकर आए, वह अपने आप में एक जुर्म माना जाना चाहिए। इसमें यह संशोधन होना चाहिए क्योंकि हमारे देश में जितने हथियार और अवैध घुसपैठ हो रही हैं, जितनी छूट दी गई है, आतंकवाद की लड़ाई में, वह बहुत ज्यादा घातक सिद्ध होगी। मैं गृह मंत्री जी से फिर अनुरोध करूंगा कि इस पर बहुत ध्यान दें। हमारे देश में कोई अवैध तरीके से अवैध हथियार लेकर आए, इसकी कोई जरूरत नहीं है। वह कोई तीतर का शिकार करने नहीं आ रहा है, वह कोई सैर-सपाटा करने नहीं आ रहा है, वह एक खास मकसद से आ रहा है और वह मकसद आतंक फैलाना है। यदि किसी व्यक्ति के पास से, जो विदेशी है, केवल अवैध हथियार पकड़े जाएं, वह हमारे देश में हथियार लेकर आए, वह स्वयं इस कानून के अन्तर्गत आना चाहिए। इस विधेयक में यह संशोधन लाना बहुत जरूरी है।

बहुत से अन्य विरोधाभास हैं। इसलिए मैं जो कह रहा हूँ, उससे यह नहीं समझता कि विपक्ष इस बात पर सहमत होगा कि यह विधेयक सर्वसम्मति से पास होना चाहिए। लेकिन इसकी जरूरत को कोई नजरअंदाज नहीं कर सकता। यहां जो बात होती है, उससे बाहर एक संदेश जाता है। पहली बार जब हमारा विंटर सेशन शुरू हुआ तो यह संदेश गया कि विपक्ष पोटो के खिलाफ है।

यह संदेश अच्छा नहीं गया, इसलिए इस पर मंथन करने की जरूरत है। वैसे तो विपक्ष का रवैया पूरे तौर पर कंट्राडिक्ट्री है, रीजन के खिलाफ है। एक चीज जो आपको एक तरफ अच्छी लगती है, दूसरी तरफ खराब लगती है। जहां गुजरात में पूरी सरकार है, संख्या का कोई संकट नहीं है, वहां पर आप चाह रहे हैं कि राष्ट्रपति शासन हो और उत्तर प्रदेश में जहां राष्ट्रपति शासन लागू कर दिया गया है, वहां पर आप उसके खिलाफ हैं। किसी एक चीज पर, मैं नहीं समझ रहा हूँ कि आपकी राय कोई कन्सिस्टेंट राय है या एक राय है। लेकिन इस बारे में इस विधेयक के बारे में एक खास अपील करने की जरूरत है और वह अपील यह है, कम से कम हमने अपने क्षेत्र में इस बात को महसूस किया है और सम्भवतः आप लोगों ने भी यह महसूस किया होगा कि जब यहां पर 13 दिसम्बर को फायरिंग हुई थी तो वह चोट सांसदों को लगी हो या न लगी हो, लेकिन हमारे समर्थकों को अपनी जगह पर बहुत जोर से चोट लगी और अभी तक कोई संदेश हम नहीं दे पाये हैं, जिससे कि यह लगे, उस दिन पूरी संसद एक राय की थी तो आज क्यों आतंकवाद का विरोध है। आतंकवाद से लड़ने के लिए जो कानून है, उसका समर्थन क्यों नहीं हो रहा है, इसका जवाब इस संसद के लिए देना बहुत मुश्किल होगा।

मैं यह कहकर अपनी बात खत्म करना चाहता हूँ कि यह कोई राजनैतिक मुद्दा नहीं है। यह केवल कोई राष्ट्रीय मुद्दा नहीं है, यह एक अन्तर्राष्ट्रीय मुद्दा है। मुद्दा यह है, बिन्दु यह है कि हमारे पास आतंकवाद से लड़ने के लिए कितनी इच्छाशक्ति है। उस इच्छाशक्ति को क्या हम प्रकट कर सकते हैं, उसके लिए क्या हम एक साथ चल सकते हैं? उसके लिए मैं यह कहूंगा कि यहीं नहीं संदेश हमको भेजना है कि यहीं इसको सर्वसम्मति से पास किया जाना चाहिए, इसके साथ ही साथ राज्य सभा में भी सर्वसम्मति से पास हो, इसी आशा के साथ आप लोगों का बहुत-बहुत धन्यवाद।

SHRI SHIVRAJ V. PATIL : Sir, I am just on a very small point and not to contradict what Gen. Tripathi has said, but to put the record straight. I am under Rule 357 of the Rules of Procedure which says :

"A member may, with the permission of the Speaker, make a personal explanation although there is no question before the House, but in this case no debatable matter may be brought forward, and no debate shall arise."

I am trying to give 9 personal explanation. The hon. Member said that in the meeting of the Consultative Committee I said what was provided in the POTO is not enough. Sir, this is not the statement I made there. I had said that a law may be required to control the terrorist activities; but at the same time I had pointed out the defects in POTO, according to my understanding.

There were two points on which I had made quite a lengthy statement. One point related to the bail provision and the other point related to the confession. I had said, while speaking in the meeting of the Consultative Committee that if bail can be given or denied to an accused person by a judge, it is on the basis of three principles – one principle is that he is likely to jump the bail; the second is that he is likely to commit an offence and the third is that he is likely to influence the witnesses. Now, that provision is already there in the Criminal Procedure Code and the Evidence law and if we use these provisions, it would not be necessary for us to say in the POTO that bail shall not be given to the accused person.

If these provisions are there, the court will certainly refuse the bail and the purpose of not allowing the accused person to go scot-free or jump the bail or influence the witnesses will be achieved. That was the point I made.

The second point was about confession. While speaking about confession, I said that the POTO provides that a confession made to the police shall be admissible. I had said that this is contrary to the criminal jurisprudence. Again POTO says that the confession made to the police shall be produced before the Magistrate and the Magistrate will certify that the confession was made voluntarily. If it has to be done in that fashion, what is the difficulty in producing the accused before the Magistrate, which is allowed by the Criminal Procedure Code? If you do that, that purpose will also be served.

I had made these statements. I had found defects, according to my understanding, in POTO and I had made the statements. I had not said that make the law more stringent. I thought that impression should not go round that I am asking for a more draconian POTO rather than saying that these things should be corrected. Moreover, Sir, what is said in the Consultative Committee and the Standing Committee is also not referred to in the discussions in the House. Had it been done, it would have been better. But then, I do not mind. I just wanted to straighten the record.

SHRI PRAKASH MANI TRIPATHI : This is not from the records of the Consultative Committee; this is from the newspaper.

SHRI SHIVRAJ V. PATIL : You cannot refer to the record of the Consultative Committee and more so, you cannot

quote to the newspaper also.

SHRI PRAKASH MANI TRIPATHI : But everybody has done like that.

SHRI SHIVRAJ V. PATIL : I am not insisting. We can have this in mind in future.

SHRI PRAKASH MANI TRIPATHI : But one point that â€¦. Anyway, I do not want to refer to it again because â€¦. But the impression that this has given was that â€¦.

SHRI SHIVRAJ V. PATIL : I have no objection to your saying that. ...(*Interruptions*)

SHRI HANNAN MOLLAH : Mr. Chairman, Sir, I rise to oppose the most draconian, oppressive and inhuman piece of legislation in the history of our country with all the might at my command. The Government brought this Bill with not a very honest motive. All the Governments, when they bring draconian laws, give the same argument. They are repeating the same argument and arguing the need for such a draconian law.

Sir, they brought this Bill through the backdoor. If, at all, it was necessary and if they had done it honestly to their intentions, they could talk with all the political parties before bringing the Bill and they should not have brought that law without waiting for the Parliament Session, and through the backdoor method, through the Ordinance.

Sir, I know that the Government has deviated. They are talking of the Law Commission, but they deviated even from the Law Commission's recommendations. They have made even more stringent provisions that what the Law Commission had suggested.

Sir, you know that the Human Rights Commission – all retired Supreme Court Chief Justices and Judges are there in this Commission – made their view very clear. The Chairman of the Human Rights commission said that there were two questions. The first was whether POTO was needed? And, if such a law was needed, what type of law was needed? He said that the unanimous opinion of the Human Rights Commission was that such an Act should not be there. This was opposed in toto. And because of that, the answer of the second question does not arise.

Sir, now the question of TADA has been raised by other Members. I would like to say that TADA was there and misuse of TADA was hilarious, condemned by all the people.

Now, a more draconian law is being presented. Who is doing that? Shri Advani was the severest opponent of TADA and, now, he is the staunchest supporter of POTO. Which face of Shri Advani is correct? Is it not double standard? Is it not political opportunism? Is it not to deceive the people? What is this, I do not know. This is the question. On TADA, even your allies unanimously passed a resolution. It says,

"The Government should take necessary steps to remove any apprehension that it can be misused against the Press, political opponents, and a specific community."

This was the resolution passed by your allies. Still, that purpose was not served when this Bill was rewritten and placed before them. You have all the draconian provisions of TADA in this. However, you have consciously eliminated the communal factor. It is because you want to save your *Sangh Parivar*, who are burning Gujarat, who are creating divisions in the society, who are creating bloodbath in this country. All communalists are anti-social, all communalists are against the nation, and they should be prosecuted. Communalism is a crime against the humanity. There is not much difference between communalism and terrorism; both are crimes against the humanity. In TADA, there were provisions against communalism and terrorism, but in this Bill, you have removed 'communalism' and kept only 'terrorism'. This is opportunism. This is the B.J.P agenda. They have separated these two and kept one to save the communal forces, the BJP allies, like the RSS, the VHP and the *Bajrang Dal*. This is the one deception in this Bill.

Secondly, despite POTO, the Parliament was attacked, Gujarat was burnt and so many other crimes were committed. Therefore, as TADA failed, POTO also will fail. This is the fate of such draconian laws. I would only like to say that a draconian law is not a panacea for terrorism. For preventing terrorism, you need honest intentions, you need better administration, you need proper training for the police, and you need proper intelligence system. You need all these things. Here, you all failed. When you come to power, you become the servant of the Government servants. You forget everything, and whatever the police officials say, with folded hands, you just implement that. These officials do not want to work. They do not want to go for better investigative methods. They are inefficient. They cannot adopt proper investigative methods, they cannot make proper charge-sheets because they are all corrupt and inefficient people. They convince the Minister that such a law is necessary because they do not want to work and they draft such laws. This is the situation. It is not the law, but the administration which failed.

My point is that all draconian laws become political weapons, and we Left Parties always become the sufferers of

these draconian laws. Mere assurances will not serve any purpose. All the Ministers, in the past, gave assurances, but those assurances were never respected. It was misused against the opponents, especially the political opponents, and the Left forces always became the target of that. We are not opportunists. We opposed TADA, we oppose POTO, and we oppose any such inhuman, anti-civilian acts. We will oppose them tooth and nail, and I am standing here to oppose POTO.

The Government said that there is an extreme situation and, therefore, there is need for extreme measures. That is the argument that our hon. Home Minister has put forward, but I do not agree with him. The Government seeks to have a law in the name of patriotic duty. All Governments say that they are piloting a law as a patriotic duty.

Sir, the Centre should always be dubbed as anti-national. This is the fashion of this country. We do not subscribe to this view and we think that this is a proven failure. Each of these Bills were brought in with the purpose of misusing them and they were always misused and the misuse of this Bill is also bound to happen and it would be misused by the police and by the bureaucrats who are not famous for their sincerity and independence, especially under the rule of the present Government. The Army, the police and the bureaucrats are totally subservient to the views of their political masters, not only do they subscribe to the views of their political masters but also to the communal views of the political parties. How could we expect these people to behave impartially? We do not believe that and because of this we are opposing this Bill.

Sir, my next point is about the human rights. The Human Rights Commission objected to it and they suggested that there are so many laws in this country. The hon. Law Minister should remember that there are so many laws in our country. There is no dearth of laws in our country. All that you need is to strengthen those existing laws. But instead of strengthening the existing laws, the Government proposes to bring in another new law. We have the Section 153(b) of the IPC for dealing with any threat to the unity, integrity, security and sovereignty of the country. We have chapter six of the IPC for dealing with offences committed against the State. We have Section 121(a) for dealing with conspiracy by criminal forces and there is a provision for life imprisonment for this under this Section. We have Section 122 of the IPC for collecting arms and ammunition with the intention of waging a war against the Government of India. We have Section 124(a) for dealing with cases of sedition. We have chapter VIII for dealing with offences against public. We have section 153 for dealing with people promoting enmity between two groups and communities.

Sir, likewise, there are many other Acts as well. We have the Arms Act of 1959, the Explosives Substances Act and the Armed Forces Special Power Act. These Acts empower the Government to take action against terrorism if the Government is honest and sincere about implementing these laws. We also have Acts like the Unlawful Activities Prevention Act, the Unlawful Activities against safety of Civil Aviation Act, then there is the National Security Act, the Prevention of Narcotics Drugs and Psychotropic substances Act and the Foreign Exchange Violation Act. Likewise, I could give you a list of so many other laws as well. Now, if these laws are suitably amended at proper places, then you need not make a cocktail of these laws and bring in a new legislation. Probably, the Government favours cocktail in the evening!

Sir, the Government has failed because of the failure of our criminal justice system. Our criminal justice system is archaic, incapable and corrupt. The Government should try and improve upon it. The investigation machinery is very weak and there has been a lot of political interference in it. If honest politicians run the Administration, then they would try to change the system and make the best use of whatever is already available.

Sir, next I come to the question of shortage of courts in our country. There is no proper infrastructure. The Government is not concerned about the speedy trial of the under-trials. They only want a law. They cannot function without having a new law. The question of having proper infrastructure has no value to them.

Sir, the Government is talking about having adequate safeguards in this Bill. What are those safeguards? These are misleading and illusory. The Government has been talking about a review. An initial review was done by the bureaucrats and a few senior police officials who are never known for their sterling qualities of independence and specially under the present regime they have become more politicised. So, they would not do it.

Sir, secondly, the Government has been talking about the bail provision. The bail is not to be decided on a *prima facie* finding that the accused is not guilty. What is meant by this? It is a clear reversal of the normal burden of proof. Thirdly, it is widely believed that this new legislation will increase harassment and torture of the innocent people in spite of the assurance by Government to the contrary. Lastly, as in the past such black laws have been misused, this law also is bound to be misused.

The Government cannot check the misuse of certain provisions of this Bill. It has not built that power into the Bill. Even the intention to state that the Bill will not be misused is not evident from the Bill.

Hon. Law Minister has been referring to the relevant law of USA. Can we compare this Bill with the law of USA? That law too has many black provisions. It has become a fashion for our Government to follow Bush in his new *avatar*. Bush had the temerity to say, "Either with us or with terrorists." This Government is following that. They say, "Either you are with POTO, or you are condoning terrorism." It is the greatest reprehensible statement one can make. We are not going to side with imperialists; we are not going to side with terrorists; and we are not going side with these authoritarian attempts to curb individual rights.

How did the US law came into being? It took six weeks for them to make it, after the incident. Major parties there sat together, prepared the draft, and then passed it. There is no comparison between the law they have made and POTO. Will the Minister kindly enlighten the House as to whether the US law is meant to deal with its own citizens? Will he kindly enlighten the House whether the US law subjects its own citizens to detention without recourse to ordinary legal remedies? Can the Minister enlighten the House as to whether or not recourse to normal legal processes is restricted under the US law? The Americans framed their law to strengthen their existing laws relating to surveillance, money laundering, infiltration, improving intelligence on terrorist organisations, etc. Section 11 of the American law ...(*Interruptions*) I am not holding a brief for them. Many black provisions are there in that law also. It is the Minister who has been saying, "They have done it; and we have done it." Even there, the provision relating to indefinite detention of foreigners was opposed. The House and the Senate sat together and finally reduced the period of detention to seven days. This Government is talking about one year. Shri Prakash Mani Tripathi advocated the need for retaining the provision of one year.

There is the question of TADA versus POTO. Under TADA, a review was allowed every two years. There is no provision for review under POTO. The Government has cleverly made provisions saying that a Review Committee will be there 'when necessary'. Who will decide the necessity? Why should the Review Committee not be made compulsory? From these provisions, the intention of the Government becomes very clear.

This Bill is not confined to a specific territory. It is applicable to the whole of India. TADA was first implemented in Punjab and was then extended to other States. This Bill is going to be applicable to the whole of the country. It also applies to cases of murder, robbery, etc., which are covered by IPC. Why has the Government brought the things covered by IPC under the purview of this Bill? What is its purpose?

This Bill poses a threat to the freedom of press. Though the Government has changed the provision, the Bill is still going to be a threat to the freedom of press. Under the provisions of the Bill, any organisation can be declared a terrorist organisation, without any evidence, just by naming it in the Gazette. What is this? The Government has named 23 organisations as terrorist organisations, but it will not do so in the case of Bajrang Dal or VHP. They are equally anti-national as the other terrorist organisations, and they are equally the enemies of the nation.

Sometimes I do get a feeling that even Musharraf - though he is a militant; a fundamentalist; an enemy of our country - had the guts to fight with the Islamic fundamentalists in his country. He had the courage to use force against Islamic fundamentalists in his country. However, our Government has surrendered before the Hindu fundamentalists. The Government lacks this minimum courage. This is the situation in the country.

Then there is the question of Special Courts. As Shri Jaipal Reddy has already mentioned, the policy of pick and choose will be followed in this. In that case, what may happen is anybody's guess. Even the concept of presumption of innocence is also not there.

17.00 hrs.

There is also a clause dealing with absence of lawyer. It says that the trials can be held without the presence of the accused or his lawyer. How can you judge the case without his representatives? So, this Bill should be reviewed, if it is passed now, every year by the Parliament at least and it should not be done by the backdoor system of review, which was proposed now.

Then, there is this question of misuse. I have already told about this that DIR, NASA, MISA, etc. were misused. We are the worst sufferers. The workers of the Left Parties always were put behind the bars by the Government, whoever was there. TADA was also misused and only one per cent persons were punished. The same thing will happen here also. It will be used against a particular section of the people - the Opposition, the political opponent; and ultimately people will not be spared. Who will then organise democratic movements? It will be used against the democratic movements and that is why, we want to oppose this Bill.

Then there is another question of content. I want to draw your attention to the contents of POTO. I want to talk about the definition itself. Is it a definition? It is a novel one. It is like Rushdie's novel; it is huge; nothing is left. They have brought in all the clauses by which they could suppress all. I have not seen such a definition before. It is so huge. Everything was included in it.

I want to tell you something about the provision on 'crimes'. What is the definition of crimes here? The crime is to be not based on the actual action carried out by any person, but it will be based on the interpretation of the law-enforcers of the intent behind that action. Who will judge the intention? Intention is the deciding factor and not the actual action. Who will decide the intention? उसके पीछे क्या मंशा है, कौन जांच करेंगे - ऑफिसर्स, पुलिस। क्या ये लोग सही जांच करेंगे? It is a dangerous weapon in the hands of the Government and that can be used against the Opposition. So, Section 3 (1)(a)(b) and the following Sections may be examined. You should also have a proper, categorical and a clear definition so that these apprehensions can be removed. It is a clear violation of the fundamental rights to equality before law.

Then Section 3(5) is contrary to all norms of criminal jurisprudence. I will request the Government to reconsider this Section also, which says mere membership of a terrorist organisation is punishable up to life term.

In Section 3(3), they have used very loose words like 'advocate', 'abet', 'advice', etc. These types of words should not be used in any law because they can be misused. The most reprehensible is the provision to target any person on mere suspicion that the person is withholding information that could result in the apprehension of a person accused of a Terrorist Act. This is given in Section 14(1) and Section 14(2). POTO provides for declaration of an organisation as terrorist by a mere publication of a name in the Official Gazette; and arbitrariness inherent in banning is made worse by denying all legal redress. This is given in Sections 18 and 19.

Section 32(1) states that the confession made before police officers are admissible as evidence as opposed to the ordinary procedure in which only confession in court or before a judicial magistrate is acceptable. This will lead to custodial abuse and torture. This is bound to happen and third degree methods will be used by the police.

In Chapter V, there is a provision of tapping of phones and other information; this will ultimately prove to be violative of the right to privacy upheld by the courts.

There also much care should be taken.

The provisions of bail and remand are also severely restricted and once held under this law, the accused is kept in jail without charges against him. This is nothing less than the preventive detention. Besides this, there is the provision of summary trials and trials in the absence of the accused or its pleader. This is as per Section 29, sub-section (5). I would say that this has been done with ulterior motives. "The witness need not be disclosed". The police has organised their own witness to prove that they are right. They do not behave independently and appropriately. This is bound to be misused because there is no punishment for the violation of this section.

Even as this law defines crime first and foremost on intent, and since intent is to be judged and prosecution launched by a corrupt and malleable law enforcing machinery, the use and misuse coalesce. POTO obliterates the distinction between innocent and guilty, the social visionaries and anti-social civil libertarians and crook, poets and conmen, secessionist and scoundrels, peasant, revolutionaries and thieves – all coalesce into one category, that is the terrorist. So, because of that we oppose it. I think, POTO will bring emergency through back-door and because of that we oppose it.

We are not going to learn patriotism from others. We have suffered the maximum and we know that we have to suffer more in the hands of these fascist forces but we are not going to surrender.

Lastly, Sir, it was asked as to why the Bengal Government talks of POCO. I think I should make the point clear. There is much noise about POCO. The Union Government argues that if West Bengal Government brings POCO, why are we opposing POTO. We oppose it because there is nothing common between the two for comparison. Only ignorance is the reason of comparison. POCO is absolutely case-specific. It was thought of in the context of organised crime like kidnapping. This proposed Act has a very limited purpose within the State. But it is being compared with hundreds of draconian clauses of POTO.

One newspaper, occasionally critical of the Government of West Bengal, made certain comments and I would like to quote *The Telegraph*, Kolkata, dated 8.11.2001:

"In fact he (Shri Budhadev Bhattacharya) had been discussing the idea of some such law before the September 11 terrorist attacks in US, which prompted POTO because organised crimes like kidnapping for ransom and gang battles were on the rise in the State in recent months. The abduction of the Khadim owner (Businessman) also exposed that the new crime networks are spread across several States and sometimes beyond the country's borders, the Government felt it needed wide powers not only to crack these networks but also to prevent organised crime."

So, this is the reality. Without knowing anything the Members are talking about POCO. It has absolutely case-specific proposals and no comparison of it can be made with all the hundreds of draconian anti-human, uncivilised provisions that are there in POTO. Because of all this I oppose it with all might at my command. We know it will be

misused and whenever it will be misused we will fight on the streets against all sorts of misuse as we have done in the past.

SHRI ARUN JAITLEY: Mr. Chairman, Sir, we are debating a very important piece of legislation. Whenever we legislate, the content of the law that we frame

must always have some relationship with the problem that it seeks to address. We all know that India's struggle and fight against terrorism, primarily cross-border terrorism as also some forms of domestic terrorism, did not start really on the 11th September of last year. We have, for the last fifteen years, been victims of this terrorism, so much so that when we frame a law it is not some ordinary crime that we are dealing with.

Sir, Shri S. Jaipal Reddy mentioned some figures which he attributed to me that this is the volume of the price that this country has had to pay as against terrorism. I have the figures updated till about three to four months ago. I will just give some comparative figures because it is normally said that terrorism is a low intensity war. This country has fought four high intensity wars and in those four high intensity wars we have lost a total number of our people numbering 5468; approximately five and a half thousand people were lost in those four high intensity wars. But in this so called low intensity war in the last fifteen years, we have already lost 61,013 civilians. In addition, we have lost security personnel numbering 8706. We have lost homes of people. Almost six lakh people in this country have become homeless to terrorism. I will give the entire details.

Outside the expenditure of our Armed Forces, merely for maintaining the entire set up to fight insurgency, to fight cross-border terrorism, the economic cost itself has been Rs.45,000 crore. Each one of us here for our areas and localities and constituencies that we represent day in and day out ask for various facilities - we want hospitals, we want schools and we want roads, etc. But here is Rs.45,000 crore being spent by this country, collectively by the States and the Centre, merely on account of anti-insurgency. The budgetary increase itself in the last fifteen years because of terrorism or anti-insurgency activities has been 26 times. We have no record of the explosives which have been used in various parts of the country. We have a record of crime. But the explosives which have been confiscated by our security agencies are 48,000 Kilos. If our security forces had not been vigilant enough to confiscate these 48,000 Kilos of explosives, probably it was enough to take care of every inch of Indian soil.

The hon. Member just now asked as to what are the regions which are affected. The regions which are affected are not only Kashmir; you have Punjab which has suffered, you have Kashmir which has suffered on account of cross-border insurgency. This has even affected Mumbai, Delhi and other regions of the country. You have north-east which has suffered because of insurgency. Development has suffered, economy has suffered. You have now the brand of MAOIST terrorism; People's War Group and other groups. A large part of Andhra Pradesh, Orissa, Madhya Pradesh, Chattisgarh and Jharkhand right up to the Nepal border is suffering. You had insurgency and terrorism where Tamil Nadu suffered. We have lost two of our former Prime Ministers to this kind of terrorism. You have terrorism of various colours. You have a high economic cost. You have citizens of this country and our security people being killed.

What is the effect of all this? Terrorism starts undermining every political system. It undermines democratic values because people then say we must use strong measures against terrorism. It undermines the faith in the democratic process. It halts economic progress. In Andhra Pradesh, when People's War Group started striking at business establishments, all of us were concerned because here was a State which was making such great economic progress and the object was somehow try and halt it.

Investors do not invest in those areas where *jehadis* move with guns. Economy suffers. It is not only this. When counter-terrorism measures are taken, at times, these measures start resulting in alienation of a section of people. Therefore, in terms of our sovereignty, unity and integrity and our feeling of nationalism, terrorism starts striking at each one of them. This is the enormity of the problem of terrorism that we are addressing. It is not that the problem is over. I will just read three or five sentences of how there are people who encourage international and cross border terrorism and how their evil eye is targeted at us. May I just quote from President Musharraf's speech of 5th February, 2000 at Amdore Camp?

"*Jehad* is not terrorism. Mujahedin organisations are not terrorist organisations. *Jehad* has been revived during the Afghan War and now, it is *Jehad* in Kashmir. Muslims from different parts of the world who are coming to support are oppressed brothers and sisters."

This is what he had to say.

"Fighting *jehad* against India is a beauty of such and such world. Kashmir issue cannot be resolved by

any other means other than *jihad*."

This is said by Osama bin Laden on 27th August, 2000. Masood Azhar who got himself released by virtue of that hijack says:

"Our mission is not Srinagar. We have to capture New Delhi."

This is what Jaish-e-Mohammad terrorists have to say. I would not go into this. There are enough organisations in India. Reference was made by the honourable speaker and I am not just quoting off the cuff. These are publications of organisations such as SIMI. This is July, 2000 publication.

"The ideologies of democracy, secularism and nationalism have replaced the objects of worship of the past. It is our duty to demolish these ideologies and establish a caliphate as enjoined by so and so."

This is the menace which we are seeking to fight. When we are thinking in terms of legislating today, the legislation must actually address to this problem. A very simplistic argument was given. Shri Hannan Mollah just gave it that we have enough laws and existing laws. When you said that our criminal law systems are broken down, it seems to be a sad fact to accept. But are you aware of what is the conviction rate now under the so-called ordinary laws that you have said just now? At times, we try and conceal figures and say that in India, the conviction rate is 40 per cent. But that 40 per cent is actually a camouflage because every time there is a challan and somebody pays Rs.100 as fine, it is stated as a conviction. Every time somebody feels guilty and pays some fine under the Companies Law, we take it as a conviction and then say that the conviction rate is 40 per cent. In heinous crime like murder and above, conviction rate under the so-called normal processes has come down to 6.5 per cent. Therefore, when we commit a crime.....(*Interruptions*)

SHRI ANIL BASU (ARAMBAGH): What is the reason?

SHRI ARUN JAITLEY: There are several reasons. If you want, we can have an independent debate on those several reasons. One of the reasons is that when you deal with these hardened criminals, some of our old notions of criminal law have, in fact, to change. If the hon. House agrees, we can have a debate on this issue. It is a sad reality that crime in India has become a low risk business. It is a high profit business with 93 per cent of possibility that you commit a hard crime and get away with it. But when laws have been hardened, when a replica of this law against organised crime has been implemented in Maharashtra, what is the conviction rate under MACOCA? I am aware of the fact that it has to be tried for a reasonably long period to finally have the rate settled. But in the last about two-and-half years, under Maharashtra's law which is similar, what is the conviction rate so far? It is over 75 per cent.

I will go into the reasons as to why the conviction rate is over 75 per cent under MOCA. Probably, that may address the question which an hon. Member had raised. Several issues have been raised. I will come to two major points raised by Shri Jaipal Reddy and Shri Shivraj Patil, as far as this law is concerned. One of the criticisms made is that, this law must have a definition and that the definition must be precise. It is very easy to say that make the definition precise. I would urge any hon. Member to please read and re-read the definition and please tell me which is the terrorist offence which has not been covered and which is the non-terrorist activity which can get covered. If you are specific, and if you do not sloganise, we are open to corrections. There were only two specific suggestions, which came from Shri Jaipal Reddy, about the definition. I would urge the hon. Members that this kind of reading of the law cannot really be accepted. One of the suggestions he made was that according to his reading of the law the trade union activity is affected because whoever disrupts the essential supply is going to be covered under POTO or POTA. Let me just take two minutes to read the definition to show how this is demonstratively wrong. It says:

"Whoever with the intent of threatening the unity, integrity, security and sovereignty of India or strike terror in the minds of people"

We may agree or disagree with this. But at least our trade union leaders are nationalist leaders. Nobody has ever suggested that when our trade union leaders go on strike, they are threatening the unity, integrity, security and sovereignty of India. ...(*Interruptions*)

SHRI HANNAN MOLLAH : What is history? See how many leaders have been arrested under various laws. ...(*Interruptions*)

MR. CHAIRMAN : Shri Mollah, please do not interrupt. (*Interruptions*)

SHRI ARUN JAITLEY: Sir, I would not fall prey to this diversion. So, the first pre-condition and definition is that you must threaten the unity, integrity, security and sovereignty of India. Trade union movement does not do that. Obviously, they are not covered. ...(*Interruptions*) That you must look to your right and ask your friends who put them behind the bars. We did not.

The second condition is, "or to strike terror in the people or any section of the people does any act or thing using bombs, dynamites, explosives or other inflammable substances." So, the second pre-condition to disturb India's unity, and integrity, you must use bombs, the kind of activity the PWG has been doing, you must use explosive substances, you must use fire arms, and you must use dynamites. By the use of these two conditions, if you do the following acts, you will be booked. One of the following acts is to disturb essential supplies. You go and bomb the power station, or you go and disturb the entire water supply to the city etc. Any terrorist group which in order to threaten unity and integrity uses bombs, and explosives and then threatens supplies would be covered under POTO. Somebody who simply goes on strike is not covered under POTO. This is a misreading of the definition. I would urge a very senior Member like Shri Jaipal Reddy to kindly correct that reading of the definition itself. The second reason given was – this was the reason given in order to add communal tinge to the whole argument – that under TADA terrorism was defined. There was a good reason why we changed that definition. This is a sad reason why we have to change that definition. You do all these acts and the result of these acts must be either of the two, it must either cause terror or fear in the minds of the people or bring disaffection between the communities. So, if People's War Group bombs business establishments and says that there is no disaffection between the communities, the provision of TADA could not be attracted. All investigators under this Act said these are the major handicaps. The Supreme Court gave several judgements in this regard. The most sad judgement in this regard was the judgement in the case of assassination of our former Prime Minister, Shri Rajiv Gandhi. The Supreme Court said that LTTE had some problems because of the Accord. They wanted to take revenge. They killed him. So, where is disaffection between the communities?

Therefore, TADA was not made out even when Shri Rajiv Gandhi was assassinated. These two pre-conditions made the definition very narrow. It added unreasonable pre-conditions. In fact, when we changed this – in fact, I share this information with the House – the senior-most officers investigating the crimes in the SIT – I happened to meet them – said: "Thank God, you have changed this definition because under that definition, it was almost becoming very difficult, if not impossible, to bring anybody into TADA." Today, to create communal disaffection, if somebody starts using bombs, if he is threatening the integrity and sovereignty of India by using bombs, he is automatically covered by this. The restrictive definition has gone because the restrictive definition, even in that most important case under TADA, made it impossible to bring the accused under that case. I would request you not to bring a communal taint in this argument. It was done because of reasons of criminal law investigation. It was done because the law compelled us to bring the definition and make these changes.

What else does this law say? If I put it in a simple language, it says that after defining terrorism, this law says that membership of a terrorist group is prohibited. If you become a member of the terrorist group, if you support terrorist activities of that group, then POTO is attracted against you. Initially, when the draft was prepared, this Chapter was not there. But, over the last ten years, not only India but also other countries, there is a considered opinion. There has been a considered international legal and judicial opinion also how to tackle terrorism. The law will punish the terrorists. But the law is now to be based on the international experience. We shared the international experience. Finally, when we looked at various Chapters internationally, we found that as far as membership of a terrorist group is concerned, the British law has an exclusive Chapter on banning terrorist organisations. Shri Jaipal Reddy wanted our laws to become like the British and the American in respect of compliance. After banning a terrorist organisation, membership of a terrorist organisation, *ipso facto*, becomes an offence and that becomes a punishable act.

May I now ask myself a question? Then, there is a power against review which is given. After the Review Committee, you may have a power even to go to the High Court or the Supreme Court. We have a judicial system in India. The whole objection being raised is: "Why should the Government have a power to ban a terrorist organisation?" Our country has paid such a huge price for terrorist activity. How can there be even an argument saying that these terrorist organisations should not be banned? Why should the political system at all sympathise with them? Why should it say like this? "We do not need a ban on terrorist organisations". Britain is one of the more liberal democracies in the world which has a complete Chapter banning terrorist organisations. We have studied this Chapter. We have had it legally examined. We have felt that it is absolutely necessary. In the case of every effective anti-terrorist law, you need a Chapter which needs to ban a terrorist organisation.

The second component is this. This was not there in TADA. If you try and earn money through a crime, that is, through terrorism, there are two offences which flow out of that. Whoever funds terrorism, he is also held guilty. By funding terrorism, you are abetting terrorism. You are giving resources to terrorism. The world over the old terrorist laws never had a Chapter on funding of terrorists. But now you must create a fear and scare in the minds of those who fund terrorists.

I ask myself a question. Every day, we are asking a question. We ask: "Why is the United States not banning the Jaish-e-Mohammad? Why are the United States and England not banning the Harkat-ul-Mujahideen? Why is the Lashkar-e-Toiba not being banned? Why are their accounts not being frozen?" Our foreign policy and our

diplomacy was being put to test and trial. Have we persuaded the civilised world in banning these organisations and confiscating their assets? We succeeded in that. After succeeding, we are told: "Do you yourself also want to confiscate their assets and ban those organisations?" On the one hand, we are asking the United States, England, Germany and France to ban these organisations and confiscate their assets, punish those people and penalise them. After the 11th September incident, we were at least happy that all these accounts of these organisations started getting frozen. After the 13th December incident, two more organisations were added.

Now we are being told that, on our request, let the US do it and England do it. But in India, if we have the power to ban such organisations or confiscate their assets, then they say that this is something draconian and an unprecedented law. May I just ask hon. Members a simple question? It is based on one simple principle. The principle is, in every civilised society, when you commit a crime and earn profit out of crime, build a house or a palace out of crime, collect weapons through crime, keep monies in banks earned out of crime, no man is allowed to retain the profits earned out of crime. So, this Parliament passed a law – the Congress Party moved it when it was in power – that if you smuggle goods and earn wealth out of smuggling, the profits of smuggling would be confiscated under SOFEMFOPA. The Congress Party brought another law to the effect that if you are in drugs trade or arms racket or arms dealing or narcotics business and you earn profit out of narcotics, drugs or arms running, you cannot keep the profits of that and they would be confiscated because they belong to the State. What you earn out of crime is not your private property, it is against public interest and so, it must belong to the State. Is this the argument today? Shri Jaipal Reddy said that he is not so much in favour of property, but he does not want anybody's property to be confiscated. The UN passed a draft Money Laundering Bill about which all of us have been debating very much. The whole concept of money laundering has been that profits out of crime must be confiscated because profits out of crime cannot belong to an individual. Is this the argument today that since India is now having a provision where profits of terrorism are going to be confiscated it is a draconian provision?

SHRI VARKALA RADHAKRISHNAN : Mr. Chairman, Sir, the hon. Minister has been dealing with the definition. I would like to put a very simple question to him. In TADA, the definition was somewhat precise. But under the present statute, injury to property is also a terrorist activity according to the present definition. I would like to read that.

SHRI ARUN JAITLEY: Sir, if my friend wants to have a clarification on what I said, let him speak when he gets his chance.

SHRI VARKALA RADHAKRISHNAN : Sir, let the Minister hear me first. ...*(Interruptions)* Suppose there is a dispute between the parties, according to the present definition it can be termed as a 'terrorist act'.

SHRI ARUN JAITLEY: Sir, let me conclude and after he speaks, I will respond. I am not yielding to him now because the question he is raising does not arise out of any point that I am immediately making.

MR. CHAIRMAN : Shri Varkala Radhakrishnan, he is not yielding to you. Please take your seat.*(Interruptions)*

SHRI ARUN JAITLEY: Sir, the next theme of the law is this. Let me straightway say this. You say that TADA was misused. I will refer to that argument later. Probably it was misused. I would like to mention that one of the great weaknesses in TADA – it was a structural defect – was that it was dependent on witnesses, eyewitnesses and humble citizens appearing against terrorist groups. Anybody coming from Punjab, Mumbai or Kashmir will tell that the average citizen was scared of coming and honestly deposing before these institutions. We had a case where a former Chief of the Army Staff was assassinated. When the police went and investigated, even the family members there were reluctant to come out and give evidence. They said that they had seen the consequences and that they did not want to face the consequences. This is the threat that the witnesses have against terrorist acts.

When the Law Commission prepared a draft, we circulated it to all the States. The States approved the draft, but one State Government came out with a very valuable suggestion. I must express my gratitude and thanks to the Government of Maharashtra. They said that your law is incomplete and said that people do not come and give evidence against terrorists. They said that terrorists and mafia have become technology savvy, they carry wireless phones, satellite phones, they do all their communications through them and they have the best weapons, but under your law, your police cannot do it. So, they requested us to bring in a provision that, when terrorist gangs communicate with each other, intercepts of their communication should be allowed and these intercepts should become admissible evidence in court.

So, when you arrest those terrorists, you do not need a weak and humble citizen to come and give evidence against a terrorist group. You produce that recording of that intercept. At that moment, it becomes admissible evidence that, under normal law, is not admissible evidence.

We examined the suggestion of the Government of Maharashtra. After we examined that suggestion of that State Government, we accepted that. One of the strengths of this law is actually on the question of intercepts becoming

admissible evidence. One of the reasons why in Maharashtra, the conviction rate has become 75 per cent plus under MOCA is that when the intercept and that voice stares you in the face, Judges normally will accept that than any other hostile or scared witness who is unwilling to depose.

There are two other provisions. I wish to deal with them somewhat at length because, hon. Member, Shri Shivraj Patil, has referred to it. After referring to it, he has again, in the personal clarification, said that the bail provision in this case is a very hard bail provision. You should apply the normal bail provision. Then, comparisons have been given which, in my respectful submission, are inaccurate with the law in the USA and the English law.

Shri Shivraj Patil, I can assure you that this bail provision is not an ingenious thinking of this Government. We have had the benefit of several good Governments in the past. They had good legal thinking. These Governments brought forward several laws. I can obviously get up and say: "Well, in Andhra Pradesh, you have a law against organised Mafia; in Karnataka, you have a law against organised Mafia; in Maharashtra, you have worked that law out; in West Bengal, it is at the proposal stage; I must concede that I have not seen the draft of West Bengal Government." I have got a draft of all the three States, namely, Andhra Pradesh, Maharashtra and Karnataka. These laws are applicable against organised criminals – Mafia. If somebody can convince me, we are prepared to reconsider this. The argument is that when you deal with these local domestic *swadeshi goondas*, have a very hard bail provision. So, the Maharashtra law, which is against local *goondas*, must be very hard. The Maharashtra law has it. The Andhra Pradesh law has it. The Karnataka law has it. The moment you have the same law against terrorists, my God, it becomes draconian! ...(*Interruptions*)

I am prepared to yield if you have a clarification. How can the same bail provision be good against local Mafia and become draconian when it comes to terrorists? So, the same bail provision against local Mafias of Maharashtra is good but against Hizb-ul-Mujahideen, Lashkar-e-Toiba and Jaish-e-Mohammed is draconian.

SHRI SHIVRAJ V. PATIL : I am not trying to say that Maharashtra law is good and this law is bad. What I am trying to say is that the ordinary law under which bail can be given or refused can also be used to refuse the bail to the terrorist. I am saying that the principle which is used, principle which is laid down by the Supreme Court or the High Court in giving and not giving the bail are these three: one, if he jumps the bail; two, if he intimidates the witnesses; and three, if he is likely to commit the same offence.

Now, if you prove in the court of law that the terrorist who is before the court is likely to get this, I think, he will. I am not saying that because it is in Maharashtra, it should be here or because it is not in Maharashtra, it should not be there. I am speaking on the principle.

SHRI ARUN JAITLEY: I am very grateful to the hon. Member. On first principle, he says that in Maharashtra, Karnataka and Andhra Pradesh and possibly in future in West Bengal, a tight bail provision is required.

SHRI SHIVRAJ V. PATIL : I did not say that.

SHRI ARUN JAITLEY: This is my argument.

SHRI SHIVRAJ V. PATIL : No, I did not say that.

SHRI ARUN JAITLEY: I am coming to your argument. You need in these three or four States. Against organised Mafias, this law of tight bail provision is correct.

SHRI SHIVRAJ V. PATIL : That law also can be changed.

SHRI ARUN JAITLEY: Many adjectives have been used. Let me say this. We were told that your laws have to be compliant with so-and-so.

Our laws need not be compliant with the desire of the criminals because it is only the criminals who want such relaxed bail provisions. Let me show the contradiction. We are dealing with terrorists, we are dealing with suicide squads; and we are dealing with people who either die or kill. We saw that on the 13th of December happening here. Are we so innocent and gullible to assume that if any one of them who is ready to give his own life, has the luxury of being released on bail, he is going to come back and respect our judicial process and appear in courts? Are we so naïve to think that those friends of the people who attacked us in Parliament on the 13th December, if they are released on bail...(*Interruptions*)

SHRI SHIVRAJ V. PATIL : If such persons will be refused bail by the court!

SHRI ARUN JAITLEY: Why not the law therefore must say so?

SHRI SHIVRAJ V. PATIL : Let the court decide.

SHRI ARUN JAITLEY: This legislature must not abdicate its responsibility. The legislature must show that it is this problem that we are trying to face. It is this country's unity and integrity which is threatened. It is our economy which is threatened. And to this terrorism, we must say, the legislature is unwilling to legislate, we abdicate our responsibility, let the judges do the function of now saving us from terrorists because we are unable to legislate.

May I remind Shri Shivraj Patil of one fact? Please introspect. I am not reading the provisions that are there in the Maharashtra and Andhra Pradesh because they are not identical. Those provisions are applicable throughout the case. In the three States the law says, there will be tough bail provisions throughout the case. POTO says, this tough bail provisions will apply only for one year. Thereafter, the normal law will apply.

Secondly, in those three States, the law says, "one of the conditions that he mentioned that he is not likely to commit the offence again." This condition, which is there in the State laws, in Kartar Singh's case, the Supreme Court made some observation about that condition. They sent back and we have removed it. So, our bail provision is also lighter than the bail provisions in the three States. There are several investigating officers who are experts in anti-insurgency, who tell us, you need not have made this. So, our bail provision is lighter than the bail provisions in those three States.

But let me tell you that when the Congress Party was in power...*(Interruptions)*

SHRI SHIVRAJ V. PATIL : I am not on political argument, I am on legal aspect.

SHRI ARUN JAITLEY: His entire argument is political and I have to respond to it politically.

SHRI SHIVRAJ V. PATIL : He should not say that. He may say anything and I will just keep quiet. Legally, that is a different issue.

SHRI ARUN JAITLEY: May I just remind him, this language of a bail provision, the CrPC normal bail provisions, will not apply: "That no person will be released on bail unless the public prosecutor has an opportunity or where he opposes the application, there is a reasonable opportunity of believing that the person is innocent and shall not commit an offence". This is the language under TADA. We have diluted this language under POTO. This is the language in the Andhra Pradesh Bill, in the Karnataka Bill and in the Maharashtra Bill. This language was first invented not in TADA or POTO but first invented in 1974...*(Interruptions)*

SHRI SHIVRAJ V. PATIL : It becomes political.

SHRI ARUN JAITLEY: Sir, I am speaking only of law.

कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) : जब विधि विशेषज्ञ राजनीतिक भाषा का इस्तेमाल करने लगता है तो वह ज्यादा खतरनाक हो जाता है, जैसे आप कर रहे हैं।

MR. CHAIRMAN : Shri Singh, please do not disturb him.â€¦ *(Interruptions)*

SHRI ARUN JAITLEY: I am going to put a question which is not legal but political and his party will have to consider it politically.

In 1974, 28 years ago, under Narcotic Drugs and Psychotropic Substances (Amendment) Act 1974, the same bail provision was brought. Nobody has got up and said that for drug smugglers and drug peddlers this is a draconian provision. It says: "Notwithstanding anything in the Code of Criminal Procedure, every offence punishable shall be cognisable, no accused shall be released on bail unless the prosecutor has been given notice, he is satisfied no offence is made out and shall not commit a further offence."

The same TADA language, which is diluted language under POTO...*(Interruptions)*

SHRI K. YERRANNAIDU (SRIKAKULAM): Under the provisions of Essential Commodities Act also it is like that.

SHRI ARUN JAITLEY: The same language is there since 1974, in Narcotics Act; similar language is there in the Essential Commodities Act since 1989, as my colleague Shri Yerrannaaidu corrects me. In the case of Prevention of Damage to Public Property Act, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the language is not identical in these two Sections but in the other Section it is identical to the TADA language.

They are tougher than the present POTO language. There are several other laws in the Centre and in the States which we can bring out. Today, the argument is that when the bail provision is applied against organised criminals in Maharashtra, Karnataka and Andhra Pradesh, this is a valid provision, when the same tight bail provision takes place against drug smugglers, it is okay; when it is taking place against black-marketeers and hoarders under the Essential Commodities Act, they must be very toughly dealt with; but when it comes to terrorists, the general principle, the normal law should apply; and why should poor innocent terrorist be subjected to a hard bail provision?

I know, it sounds a little ridiculous, Shri Shivraj Patil but this is ...*(Interruptions)*

SHRI SHIVRAJ V. PATIL : I accept your political argument but on legal argument, I have a different position. ...*(Interruptions)*

SHRI ARUN JAITLEY: It is an argument which your Party must politically introspect itself. ...*(Interruptions)*

SHRI SHIVRAJ V. PATIL : Political reply is that you are expected to improve upon the previous situation. ...*(Interruptions)*

SHRI ARUN JAITLEY: We are also expected to learn from experiences such as Maharashtra, where in case of hardened crimes 6.5 per cent conviction rate has become 75 per cent. We are also supposed to learn from your good experiences. ...*(Interruptions)*

SHRI SHIVRAJ V. PATIL : I am appearing to be interrupting you every now and then. But this 75 per cent is out of a very small number of cases filed. ...*(Interruptions)*

SHRI ARUN JAITLEY: I said that myself. Over a long period of time, we will see what the estimations are.

Sir, you, then, have opposed a provision which we have again diluted in terms of Kartar Singh judgement. Under TADA, the provision was, any confession made to a police officer of the level of SP and above is an admissible confession and there was a reason for it. The reason is, let us just analyse what is the anatomy of a terrorist offence. The anatomy of a terrorist offence is this. Let us take the attack in Parliament on the 13th December. Somebody is trained, provided funds and provided arms and ammunition, indoctrinated in some other country. He has given support. He comes to India. Newspapers have reported and the investigating officers have said that some Gazi Baba helped them. They come to Delhi and some local people, professors and various people – I do not want to get into individuals – helped them in the logistics. This suicide squad of five people comes and attacks Parliament. When the attack on Parliament takes place, their attempt foiled and they died. In several other terrorist offences, they have hit at various camps and then escaped. So, the suicide squad either die or killed. A very few of them are in the hands of our security forces for trial. Then the investigators start investigating. From the phone bills, they find out who their contacts were; from interrogations the entire linkage of those who gave logistic support in Delhi; they move backwards right up to Kashmir, Gazi Baba and his team and get evidence of Lashkar-e-Toiba or whichever organisation is involved. Now, the argument is, apply the normal law. Who, but members of that gang, will be aware of who trained them? Who, but members of the gang, will be aware that where they got the RDX and explosives from? Who, but members of the gang, would have told you about the identity of Gazi Baba and the links to Pakistan and where the training camps were? And who, but those people, would have told you about the training camps and the facilities which Lashkar-e-Toiba and Jaish-e-Mohammed and other organisations gave them? ...*(Interruptions)*

SHRI S. JAIPAL REDDY : Apply the National Security Act.

SHRI ARUN JAITLEY: Sir, you can apply the National Security Act for preventive detention for a period of one year. It is not a penal provision. This is a provision under which if you come and destroy the sovereignty and integrity of India, the punishment is going to be life imprisonment or even death sentence. Therefore, let us not think in terms of letting them off so easily by just a preventive detention of one year and then letting them off.

Our investigating machinery, on your argument, should not be so weakened that it must say that whatever these people have told us about Gazi Baba, whatever these people have told us about training camps, whatever these people have told us about Lashkar-e-Toiba, my God, how can this become evidence?

Sir, the anatomy of terrorist offences is this. I hate to go back to that example but it is a well-known example. I have the judgement. Please re-read it.

Our former Prime Minister was assassinated in front of thousands of people. The killers died on the spot. When the rest of the conspirators of Shri Rajiv Gandhi's assassination were arrested, but for Section 15 of TADA and that also after holding TADA is not applicable, it was only the IPC which was applied because of the tight definition. But saying that it was a trial under TADA, so, we are going to hold confessions as admissible, the conviction was based entirely on that. There was not a single other eye witness. Supposing your advice had been yielded to and under your advice, Section 15 of TADA was not there, and now you say Section 32 of POTO should be taken away, that should not be made admissible, then we would have looked as a weak nation where our former Prime Minister was assassinated, and where we cannot sustain a conviction because our laws were so defective.

SHRI S. JAIPAL REDDY : Our investigation was so weak.

SHRI ARUN JAITLEY: Investigation of the SIT in Shri Rajiv Gandhi's case was one of the best investigations. In

fact, if we remember that, I must compliment some of the investigators, who, on day one, in 24 hours, told us that here was a lady with a human bomb around her waist, the sketches even appeared within 24 hours. That was the strength of that investigation. But I am just urging you to learn from it. Who would have told us that those who attacked Parliament have links with Gazi Baba? Who would have told us who supported them--Lashkhar-e-Toiba or anybody else? It is not me, you, and not any average Indian. We only get it from admissions of these people. If your advice is to be yielded to and those statements are to be made totally inadmissible in evidence, let us then give up, at least, the legal fight as far as terrorism is concerned.

The consequences of that will be more serious. The consequences, Shri Shivraj V. Patil, will be more serious. The argument, which is given by many civil libertarians, is that if you give to the police the power then police will always misuse that power. This is a fear which everybody has. This power should not be given because this power is likely to be misused. The alternative is going to be even more dangerous. Do not give legitimate power to the police but keep putting pressure on the police to deliver. Tell the DGP, Kashmir, you have no POTO or any Act to try them. Tell the DGP, Andhra Pradesh that lawful power under any law is not being given to you, and try them under normal laws. Every time you see a PWG activist or you see a Hizbul Mujahideen Jihadi, get an eyewitness against him. If you do not give to your security forces and investigative forces the legal power, the human rights violations will be much more. Therefore, if you want, out of concern for human rights, the powers not to be misused, you cannot sustain a situation where you do not give power to the police but put pressure on the police to deliver, you will have a situation of anarchy. Therefore, let us all understand what problem that we are now dealing with. And this problem that we are dealing with, requires various kinds of provisions. The legitimate power has to be given because this is an extraordinary situation. Extraordinary situations require extraordinary remedies.

Shri Jaipal Reddy quoted us. I do not know since when on each subject speeches delivered by some of our colleagues have become the gospel. But keep one fact in mind. In 1989-1991, the worst in Kashmir was yet to be seen. We had the serious problem of Punjab, and a lot of people said that Punjab is capable of a political settlement. But the last 15 years' experience has made us wiser day by day. I can also do the same. It is always good to borrow wisdom even when it comes from sources which were not otherwise considering authorities on the subject. So, when TADA was discussed, what did my friend, Shri Mani Shankar Aiyar have to say?

श्री मुलायम सिंह यादव (सम्मल) : आपको बीच में टोकना नहीं चाहिए। लेकिन आप यह बताइए कि टाडा का उपयोग काश्मीर में ज्यादा हुआ या पंजाब में ज्यादा हुआ, महाराष्ट्र में ज्यादा हुआ या गुजरात में ज्यादा हुआ?

श्री अरुण जेटली : मुलायम सिंह जी, मैं आपका आभारी हूँ कि आपने यह प्रश्न किया। टाडा का दुरुपयोग हुआ था।

श्री मुलायम सिंह यादव : दुरुपयोग हुआ, कांग्रेस ने स्वीकार किया। मैं आपसे पूछना चाहता हूँ, टाडा का उपयोग काश्मीर में ज्यादा हुआ या पंजाब में, जिसके लिए लाए थे, ज्यादा हुआ या महाराष्ट्र में ज्यादा हुआ या गुजरात में ज्यादा हुआ?

श्री अरुण जेटली : मुलायम सिंह जी, आपके यहां आने से पूर्व मैं टाडा के कुछ प्रावधानों के बारे में चर्चा कर चुका हूँ, क्योंकि मुझे लगता था कि उनमें कमजोरियाँ थीं। उनमें क्या कमजोरियाँ थीं, वह मैं बताता हूँ। दो वाक्य हमेशा कहे जाते हैं कि टाडा का दुरुपयोग हुआ और टाडा के 76,000 केंसों में से कितनों में सजा हुआ। यह तर्क कौन देता है, आप देंगे तो मुझे कोई एतराज़ नहीं है, मैं आपकी उस बात का आदर करूंगा। लेकिन जिस राजनैतिक दल ने टाडा का दुरुपयोग किया, वे राजनैतिक दल खड़े होकर कहते हैं कि जब हमारी सरकार थी, आंकड़े दिए गए कि हमने गुजरात के अंदर 19,000 किसान पकड़ लिए थे।

SHRI C.K. JAFFER SHARIEF (BANGALORE NORTH): If the hon. Law Minister yields for a moment, I would like to respond to it.

SHRI ARUN JAITLEY: Let me complete. I will just take five to seven minutes and then you can reply. I am told, you are going to participate in this debate.

मुलायम सिंह जी, अगर गुजरात की सरकार 19,000 किसानों को पकड़ेगी, मुंबई के अंदर लोग पकड़े जाएंगे - कुछ टेरेरिस्ट एक्टिविटीज़ में पकड़े गए, कुछ गैर-टेरेरिस्ट एक्टिविटीज़ में पकड़े, टाडा में कोई सेफगार्ड नहीं होगा तो जज क्यों कहेगा कि इसे जमानत नहीं मिलनी चाहिए। हमें अभी तक याद है, हमारे इस सदन के माननीय सदस्य कल्पनाथ जी थे, उन्हें टाडा में सजा हो गई थी और फिर वह सुप्रीम कोर्ट से बरी हुए। ऐसे दुरुपयोग के कई उदाहरण हैं। ये तर्क आप उठाएंगे तो मैं आपके तर्क का आदर करूंगा, लेकिन वे लोग नहीं उठा सकते जिनका इतहास यह था कि इन्होंने इसका दुरुपयोग किया। यह कहना कि हमने दुरुपयोग किया इसलिए भविष्य में आतंकवाद बढ़ भी जाए फिर भी हम इस कानून का विरोध करेंगे, यह उचित नहीं है। इसका सबक यह है कि आतंकवाद के विरोध में एक कानून बन जाए। टाडा में अधिकतर लोग बरी हुए थे। (व्यवधान)

श्री मुलायम सिंह यादव : हम और आप मीसा में दोनों रहे हैं।

श्री अरुण जेटली : इसलिए मैंने आपके प्रश्न का आदर किया। यह उत्तर आपके प्रति नहीं था, किसी अन्य के प्रति था। अगर 76,000 में से 70,000 को पकड़ोगे, जिनका आतंकवाद से कोई संबंध नहीं है तो फिर जज उन्हें छोड़ेंगे। यह कहना कि जज ने उन्हें छोड़ दिया, इसलिए आतंकवाद कानून का कोई लाभ नहीं है, मैं इस कानून में आपको बताऊँ कि टाडा के अनुभव के आधार पर सुप्रीम कोर्ट ने निर्णय दिया, हम उससे भी दो कदम आगे चले गए, हमने कहा कि इसमें ऐसा प्रावधान करिए। अब यह हुआ - Here it is said: "Confessions could be made admissible evidence." In respect of confessions, we have given the facility of video recording. After that, within 48 hours, the person should be produced before the Magistrate. The Magistrate would ask him whether it was voluntary or not. If the accused said that it was not voluntary and that he had been assaulted and coerced, the Magistrate would have a medical examination done. So,

a safeguard has been put in.

I have already explained the bail provision. It is a tight bail provision, which applies for only one year. There is no condition in the bail provision that if there were a likelihood of committing offence in future it would go.

You have raised a question – I have read it somewhere in a newspaper too – whether we have changed the onus of proof. In TADA, there were several provisions designed like if a weapon was found there was a presumption of guilt and the presumption had to be rebutted. We have brought that presumption down to a lower level of proof. There is now only an inference.

अगर आपके पास से कोई वैपन मिलता है तो उससे संकेत मिलेगा कि कोई प्रीज़म्पशन नहीं होगी। उस संकेत को आप अपनी गवाही देकर उसे हटा सकते हैं, रिबट कर सकते हैं।

We have said that there would be a review committee headed by a sitting or a retired Judge. At times, sitting Judges are not available. Therefore, there could be a sitting or a retired Judge. In TADA, there was no review committee. In the three States where it has been legislated, the review committee is headed by the Chief Secretary. In Maharashtra, Andhra Pradesh and Karnataka, the review committee is headed by the Chief Secretary. Here, if the power is misused, we have a review committee headed by a sitting or a retired Judge of a High Court. If a wrong organisation is banned or if somebody's property is unfairly taken away, there is an inner review and then a review before a Court, if you go to a Court to challenge it.

Shri Jaipal Reddy gave a very correct illustration that in England they not only had prosecution of police officers but they had compensation too.

18.00 hrs.

We have put a provision here that in case any police officer misuses this law for his own personal purposes or for collateral reasons, he is going to be prosecuted under POTO itself. There is a provision which has been created if he misuses this provision. We have studied the international experiences. This argument is repeated. I was reading one speech. I may just say it here. Hon. Member Shri Syed Shahabuddin has asked a question on 12th August, 1991: "Why do you need such a law? For how long do you need such a law?" To this, my friend hon. Member Shri Mani Shankar Aiyar has said :

"Shri Syed Shahabuddin has asked as to how long it would be necessary for us to have such a repeated extension of such an Act. I can only reply that we will have to continue extending it so long as terrorism raises its ugly head in such a sensitive border State. The problem in Kashmir in regard to terrorism is one which has its origins in the actions of terrorists. It is also a State where the actions are backed by hostile foreign powers. It is, therefore, essential to understand that the integrity of the Indian Union is under challenge; the unity of our country is under challenge; our secular values are under challenge; the law and order is under challenge; the peace of the nation is under challenge. So, as long as these exceptional circumstances prevail, it will be necessary for us to have recourse to exceptional powers to continue these unfortunate Acts."

SHRI S. JAIPAL REDDY : Therefore, you confine it to Jammu and Kashmir. ...(*Interruptions*) We will accept it. Come on, you confine it to Jammu and Kashmir.

SHRI ARUN JAITLEY: As long as you can assure us that there will be no terrorism outside Jammu and Kashmir, we will be willing to consider such a suggestion. ...(*Interruptions*)

SHRI KHAGEN DAS (TRIPURA WEST): You have to do it. You are part of the Government. ...(*Interruptions*)

MR. CHAIRMAN : Shri Khagen Das, please resume your seat.â€¦ (*Interruptions*)

MR. CHAIRMAN : He has not obtained my permission. Nothing will go on record except the speech of the hon. Minister. (*Interruptions*)*

SHRI ARUN JAITLEY: Sir, an argument was raised, which has again been raised today to use the ordinary law. Our ordinary law says and I can just quote one sentence from a Supreme Court judgement by Justice V.R. Krishna Iyer who said : "The rule is bail and not jail." Under the ordinary law, the rule is bail. In the context of terrorism, the rule is jail; it should be jail. Therefore, ordinary laws do not apply.

When somebody raised this question, one of our distinguished colleagues, the then Minister of Home Affairs Shri S.B. Chavan replied :

"We have to concede that this is a harsh law which will be out of place in a normal situation. But hon. Members will agree that terrorism cannot be tackled with velvet gloves. The law has to be availed as long

as terrorism shows its ugly face."

Please do not advise us to use velvet gloves. Terrorism has several consequences and these several consequences have to be faced with in the context of the growing threat to the country. References have repeatedly been made to laws in other countries. It is very very dangerous to quote selectively. The United

***Not Recorded.**

States brought a Patriot Act in the year 2001 after the 11th September incidents. I have found this argument being repeatedly given that under the Patriot Act citizens cannot be detained and aliens can be detained and that also for a maximum of seven days. The Patriot Act is only one Act. The language it uses is to be seen. I am carrying a copy of it. I will try to pass it on to you.

SHRI S. JAIPAL REDDY : I have one copy with me.

SHRI ARUN JAITLEY: Then, Sir, please read it. The Patriot Act is in addition to the normal anti-terrorist laws. In the United States, if Patriot Act was the only law which dealt with terrorism, then everybody arrested on 11th September should have been released by the 18th of September. But in the U.S. they do not wear velvet gloves. They do not wear kid gloves. In the U.S. we still do not know the number of people arrested.

We still do not know the kind of tribunals they have constituted under their normal anti-terrorist laws.

SHRI S. JAIPAL REDDY : They are all applicable to aliens.

SHRI ARUN JAITLEY: Please check up. If a citizen of America, if an American passport holder is involved in the blasting of the World Trade Centre, please do not suggest that he cannot be arrested and terrorism in his case may be condoned. No civilised society will ever do that.

SHRI S. JAIPAL REDDY : Then, the charge would be filed against him.

SHRI ARUN JAITLEY: Sir, you are right, but you are not coming to the point.

The point is that in India, we have a law that if you are arrested, you must be produced before the judge within 24 hours. There is a period up to which police remand can be there; there is a period up to which judicial remand can be there; there is a period up to which denial of bail can take place. In America also, you have laws dealing with terrorism which are much harsher. Power to detain for seven days under the Patriot Act is only a power to detain without any charge while in the police stations in India, you can do it only for 24 hours. In America, after seven days, you have to go and take him before the judge and say that this is the charge under which we have arrested him. In India, you have to do it on the expiry of 24 hours.

Let us not selectively take our lessons from America. With all due respects to those great countries, when 3,000 people very sadly died in the World Trade Centre, the US President said that a war had been launched on America. When 61,000 people and 8,000 security persons have died here, we are advised to show restraint. We are advised here that this is the remedy, that we should deal with it under the normal procedure.

Sir, he mentioned the definition of terrorism under the British law. I have the definition here. These are not relevant, but I can tell you that not only it is wider but it is much wider than what our definitions are.

Sir, a criticism is always made that we have brought this Bill in a hurry when the Parliament Session was being convened. Sir, the Law Commission made its draft proposal a year and a half ago. It was widely circulated. It was taken to the Consultative Committee of Parliament. It was discussed there and thereafter, copies were sent to every State Government. When you make a charge that the introduction of the law is political, I must tell you that all the State Governments, including the State Governments headed by the Congress Party, who knew where the shoe pinches, were consulted. Almost every State Government of the Congress Party not only supported this law but also gave very valuable suggestions to say that this is the manner to improve upon this law. Initially, the first proposal from the West Bengal Government was also supporting the law. It was only when the then Chief Minister made a speech that the State Government wrote another letter saying that they were withdrawing their suggestions.

The charge made was whether we had consulted. We spent one year in consulting every State Government. We have genuine federalism in action today where you have one party or the other in power in every State. We consulted each one of them. We consulted the State Governments. We consulted the Consultative Committee of Parliament. When the complaint was still made that we still had not wider consultations, we had the second meeting of the Consultative Committee. We had a meeting of the Chief Ministers of the States. We had a meeting with all Opposition leaders. Sir, having done these wide-scale consultations, today, very little value remains of the issue. We have the international experience; we have the experience of our State Legislatures which have been effective

in tackling this menace. There are different facets of terrorism which have to be tackled.

Sir, learning from this experience, I would urge the hon. Members who are opposing this law to once again consider their stand because posterity eventually will decide that this country, for its integrity, does certainly need this law.

SHRI K. YERRANNAIDU : Mr. Chairman, Sir, we are discussing today the Prevention of Terrorism Bill, 2002, which seeks to replace the Ordinance that is already in force.

The country has witnessed terrorism, including cross-border terrorism, since two decades. In the terrorist acts, we lost nearly 60,000 people. Now, terrorism exists not only in Jammu and Kashmir, but also in the entire country. Blasts occurred in Mumbai in 1982, blasts occurred in Andhra Pradesh, the Jammu and Kashmir Assembly was attacked, the Indian Parliament was attacked, and there was an attack on the American Centre in Kolkata. These are all examples of terrorist activities and cross-border terrorism.

We have so many legislations. Even then, we enacted a legislation like TADA in the year 1985. If we have so many legislations, why have they enacted the TADA? That is my question to all political parties. At that time, the TADA was necessary to curb terrorism. That is why, we enacted it. It was extended in 1987 till 1995. From 1995 to 2001, there was no similar legislation in our country. Even after the enactment of this legislation, it will be implemented by the States only and not by the Centre. ...(*Interruptions*)

SHRI S. JAIPAL REDDY : The Centre can also implement it.

SHRI K. YERRANNAIDU : You tell me where is the machinery for it. A major portion of it will be implemented by the States only. Am I correct?

SHRI S. JAIPAL REDDY : I think, the Law Minister should not be confused on this. Both the Centre and the States can concurrently implement this. Shri Yerrannaaidu can be confused, but how can the Law Minister, Shri Arun Jaitley, be confused?

SHRI K. YERRANNAIDU : This subject is in the Concurrent List. Moreover, the States have the administrative machinery and, that is why, a majority portion of it will be implemented by the States.

Mr. Chairman, Sir, when the emergency was declared in the year 1975, I was an Intermediate student. At that time, MISA was misused all over the country, except in Andhra Pradesh. In Andhra Pradesh, the then Chief Minister, Shri Vengala Rao, has not misused MISA. Only some people were taken to task, as compared to thousands of people who were arrested in other parts of the country. It depends on the will and pleasure of the State Governments. If the State Government is genuine, if they are perfect, this legislation will not be misused. That is my point of view.

Karnataka enacted a legislation to curb the Mafia; Maharashtra also enacted a legislation, and the Andhra Pradesh Government has also enacted a legislation. Other States are also planning to enact similar legislations to control the Mafia and organised *goondas*.

The hon. Prime Minister convened an all-Party meeting on this Prevention of Terrorism Bill. At that time, the Telugu Desam Party has given its consent to support the Bill, while suggesting some amendments. As per the original provision, this Act would continue to be in force till five years. We asked the Government of India to reduce it from five years to three years. To protect the fundamental rights and the freedom of speech, we asked the Government to remove clause 3(8) so that it will not affect the media and journalists. In the next Cabinet meeting, they have reduced the period from five years to three years and also removed this provision, that is, section 3(8). We are thankful to the Government of India for obliging these two amendments that we have suggested.

Even now, in Jammu and Kashmir, there is no development due to terrorism. There is no development in Telangana due to PWG. Due to insurgency, though one hundred per cent grant is being given by the Government of India, there is no development in the North-Eastern areas. We are launching so many projects, but they are not giving the desired results due to insurgency and terrorism. Due to these activities, there is no peace and harmony in the country. If there is no law and order, then there is no development and there is no progress.

That is why this law is most essential for curbing not only terrorists and the terrorist organisations in India but even outside India. The hon. Law Minister has explained the provisions in detail and I need not explain them here again. The Government has made in-built provisions against the misuse of POTO. If you compare TADA and POTO you would find that there are a lot of in-built safeguards against the mis-utilisation of POTO. We appreciate the safeguards that have been put in this Bill. The hon. Law Minister has section-wise dealt with the various safeguards that have been incorporated in this Bill and also has explained how TADA had been mis-utilised. The punishment

rate in case of TADA was only 15 per cent. The hon. Law Minister admitted that TADA was mis-utilised. But this Act should not be mis-utilised. The Government has to give directions to all the State Governments that it should not be mis-utilised and that the provisions of this Bill should be implemented in its true spirit and to be used only for the purpose of curbing terrorism and not for any political motive.

Sir, this is the stand of my party. The Ordinance is already in force and we are supporting all the provisions that have been proposed in the legislation.

कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) : माननीय सभापति महोदय, आतंकवादी विरोधी अध्यादेश, विधेयक पोटो की कोई आवश्यकता नहीं है। हमारे यहां हर तरह के अपराधों से निपटने के लिए आई.पी.सी. और सी.आर.पी.सी. में प्रावधान हैं। जब कमजोर सरकार के हाथों में देश का नेतृत्व होता है तो वह प्रचलित कानूनों का सहारा न लेकर इस तरह के कानूनों को आगे लाने के लिए बाध्य होती है। लाठी अगर लुटेरे के हाथ में होती है तो भय और आतंक पैदा करती है और वही लाठी जब सन्यासी के हाथ में होती तो वह भरोसा और सहारा प्रदान करने का काम करती है। उसके अंदर सुरक्षा का भाव होता है। पोटो या टाडा अपराध रोकने के लिए किताबी कानून तो हो सकता है, परन्तु उसकी सफलता उन हाथों पर निर्भर है, जिनके द्वारा उसका प्रयोग किया जाना है। आज टाडा के सवाल पर पक्ष और प्रतिपक्ष के द्वारा जो चर्चा उभर कर आई है, उस चर्चा के आधार पर हम कहना चाहते हैं कि माननीय गृह मंत्री जी 76 हजार के लगभग लोग टाडा के अंदर गिरफ्तार किये गये और केवल 780 लोगों के खिलाफ सरकार ने आरोप पत्र प्रेषित किये। बाकी जो लोग सरकार की नजरों में भी निर्दोष थे, वे वॉ तक टाडा के तहत जेलों में बंद रहे। इस दौरान उन्होंने जेलों के अंदर जो यातनाएं सहने का काम किया, जेलों के अंदर सड़ने का काम किया, उसके लिए कौन लोग उत्तरदायी रहे हैं और क्या उन 76 हजार लोगों को जेलों में बंद करके हमने मानवाधिकारों का उल्लंघन नहीं किया है।

सभापति महोदय, अभी दिल्ली के पुलिस आयुक्त श्री अजयराज शर्मा का वक्तव्य आया है कि दिल्ली में अपराधों में कमी आई है और इसके लिए उन्होंने दो चीजें कही हैं। प्रथम पुलिस की गति में तेजी आई है और संवेदनशील इलाकों में पुलिस की सक्रियता बढ़ी है। इस कथन से साफ है कि कुशलता, कर्तव्यपरायणता, कार्य क्षमता और सूझबूझ से अपराधों को नियंत्रित किया जा सकता है। लेकिन यह सरकार इन योग्य और अनुभवी अफसरों से कुछ भी सीखना नहीं चाहती है। इसके अलावा पुलिस कमीशन की रिपोर्ट में कहा गया है कि देश के राज्यों में जो गिरफ्तारियां होती हैं, उनमें 60 प्रतिशत गिरफ्तारियां अनावश्यक होती हैं और जेलों के लिए जो बजट निर्धारित करते हैं, उस बजट का 43.2 प्रतिशत भाग इन बेवजह गिरफ्तारियों पर खर्च हो जाता है। भूतपूर्व एडीशनल सॉलीसीटर जनरल श्री अभिक सिंघवी और पुलिस कमीशन ने कहा है कि पुलिस भ्रष्ट और क्रूर है, इनके हाथों में और अधिक अधिकार देना असहायों के लिए समस्या बन जायेगा। हम आज पोटो कानून के सवाल पर माननीय गृह मंत्री जी से कहना चाहते हैं कि देश की आजादी के बाद से अब तक देश के अंदर जितने निवारक नजरबंदी कानून लाये गये हैं, इतिहास गवाह है कि उन निवारक नजरबंदी कानूनों का हमेशा दुरुपयोग किया गया है। देश की आजादी के बाद डाक्टर राम मनोहर लोहिया, श्री राजनारायण जी, श्री रामानंद तिवारी जी, आदरणीय जनेश्वर मिश्र जी और कर्पूरी ठाकुर जैसे लोग भी निवारक नजरबंदी कानूनों का दुख झेलने के लिए मजबूर रहे हैं, इमरजेन्सी के दौर में इस देश में जो राष्ट्रीय नेतृत्व रहा है, उस राष्ट्रीय नेतृत्व से लेकर आम कार्यकर्ता तक उस पीड़ा को सहने के लिए मजबूर रहा है, जिसके आप भुक्तभोगी रहे हैं।

1977 में जब आप सरकार में आए थे, तो आपने इसी सदन के माध्यम से प्रस्ताव पारित कराकर उन निवारक नजरबंदी कानूनों को समाप्त करने का काम किया था। फिर इस तरह की पुनरावृत्ति आप क्यों कर रहे हैं, यह मैं आपसे जानना चाहता हूँ।

हम कहना चाहते हैं कि जिस तरह के आतंकवाद का सामना आज देश कर रहा है, वह सीमा पार का आतंकवाद है और सीमापार के आतंकवाद का मुकाबला कोई कानून नहीं करेगा, सरकार की दृढ़ इच्छाशक्ति, सेना और सैनिकों के हाथ में उच्च कोटि के हथियार, खुफिया एजेंसियों की सतर्कता उसका मुकाबला करेगी। सीमा पार के आतंकवादी रक्तबीज हैं, जिनका हम कानून से मुकाबला नहीं कर सकते हैं। इन रक्तबीजों को समाप्त करने के लिए आपको जड़ पर हमला करना होगा। लेकिन जड़ पर हमला करने से आप कतरा रहे हैं, डर रहे हैं। मैं साफ शब्दों में कहना चाहता हूँ कि जिस अमेरिका ने अपने उम्र प्रहार होने के बाद जिस सख्ती का परिचय दिया, उसी अमेरिका के दबाव पर आप जड़ पर हमला करने से कतरा रहे हैं। इसलिए मैं विनम्रतापूर्वक कहना चाहता हूँ कि अगर सीमापार के आतंकवाद को आप कुचलना चाहते हैं तो जब तक उस ताकत को आप नहीं कुचलेंगे, तब तक आप सीमापार के आतंकवाद को समाप्त नहीं कर सकते हैं। आज जो धर्मान्धता है, उससे आतंकवाद और धर्मान्धता एक दूसरे के पर्यायवाची शब्द हो गए हैं, उस धर्मान्धता की आग को फैलने से रोकना पड़ेगा। हम विनम्रतापूर्वक कहना चाहते हैं कि धर्मान्धता की आग में अफगानिस्तान जला, और दुनिया के बहुत से देश जले और बरबाद हुए, फिर भी आतंकवाद का जड़ से सफाया नहीं हो सका है। इसलिए आतंकवाद को मूल से समाप्त करने के लिए आपको ही नहीं, पूरे देश को और पूरी संसद को नये सिरे से विचार करना होगा। धर्मान्धता चाहे इस्लाम में हो चाहे कैथोलिक धर्म में हो या सनातन धर्म में हो, यह धर्मान्धता कभी भी अच्छे परिणाम नहीं देती है। इसलिए मैं आपसे विनम्रतापूर्वक कहना चाहता हूँ कि जो लोग इस तरह की धर्मान्धता को बढ़ावा दे रहे हैं, उन पर अंकुश लगाने का काम करें। पोटो आज तक के ऐसे सभी नजरबंदी कानूनों से ज्यादा खतरनाक नजर आता है और इसमें लोगों की स्वतंत्रता व मौलिक अधिकारों का हनन होता है।

हम आपसे कहना चाहते हैं कि आपने आतंकवादी संगठनों पर प्रतिबंध लगाया है और ऐसे संगठनों के सदस्यों को आतंकवादी घोषित करने की बात कही है, क्या आपके पास ऐसे संगठनों के सदस्यों की सूची है? यदि है, तो वह आपको जारी करनी चाहिए। आपने सिमी पर प्रतिबंध लगाया है और हम आपसे जानना चाहते हैं कि हमारे देश के अंदर जो तमाम संगठन आतंकवाद को बढ़ावा देने का काम कर रहे हैं और सैकड़ों निर्दोष लोगों की जान लेने का काम कर रहे हैं, क्या वे आतंकवाद की परिभाषा में नहीं आते हैं? अगर इसको आप सही तरीके से परिभाषित नहीं करेंगे तो निश्चित तौर पर यह धर्मान्धता पूरे समाज को और देश को अपने आगोश में जकड़ लेने का काम करेगी।

हम कहना चाहते हैं कि भारतीय संविधान के मौलिक अधिकारों में स्पष्ट व्यवस्था है कि किसी भी व्यक्ति को अपने खिलाफ गवाही देने के लिए बाध्य नहीं किया जा सकता, लेकिन इस अध्यादेश में जो सबसे ज्यादा असंवैधानिक बात है, वह यह है कि पुलिस जो भी बयान लिखेगी, वह मुजरिम व्यक्ति को स्वीकार करना पड़ेगा, वही उसका बयान माना जाएगा। आम जनता के अलावा यह कानून प्रैस की आज़ादी पर भी खतरा है और प्रैस की आज़ादी के खतरे के बाद देश में निश्चित तौर पर अराजकता अपना स्थान ग्रहण करेगी। न्यायशास्त्र के सिद्धांतों के खिलाफ केवल संदेह के आधार पर लोगों को जेल में नहीं डाला जा सकता है, मगर इसमें आपने ऐसा भी प्रावधान किया है। कोई भी लाइसेन्सधारी पुलिस का कोपभाजन बन जाए तो उसे इस कानून का शिकार होना पड़ेगा। आपने कहा कि इसका दुरुपयोग रोकने के लिए पुनरीक्षण के लिए आपने एक बोर्ड बनाया है। हम कहना चाहते हैं कि एन.एस.ए. के लिए भी आपने रिव्यू बोर्ड बनाया था, टाडा के लिए भी बना था। देश की आज़ादी के बाद से आज तक हमारे और बहुसंख्यक लोगों का अनुभव है कि जितने भी रिव्यू बोर्ड रहे हैं, इन बोर्डों पर सरकार की प्रतिष्ठा नज़र आई है। सरकार के इशारे पर ही रिव्यू बोर्ड कार्य करते रहे हैं और इन्होंने कभी भी अपने विवेक का इस्तेमाल नहीं किया है। इसलिए इन रिव्यू बोर्डों का कोई मतलब नहीं है। कुछ संगठनों पर आपने प्रतिबंध लगाया है मगर कुछ को छोड़ा है। मैं पीपल्स वार ग्रुप की तरफ आपका ध्यान आकर्षित करना चाहता हूँ। इस ग्रुप ने मंत्रियों, सांसदों और विधायकों की हत्या की, मगर उस पर आपने प्रतिबंध नहीं लगाया और कुछ पर ही प्रतिबंध लगाया है। इस तरह का जो प्रतिबंध है, जो दोहरे मानक है, ये गलत हैं।

सभापति महोदय, मैं आपके माध्यम से कहना चाहता हूँ कि जो हमारी राष्ट्रीय धरोहर हैं, उन्हें जो लोग क्षति पहुंचाने का कार्य कर रहे हैं, क्या वह आतंकवाद की परिभाषा के अन्तर्गत नहीं आता है। दुनियां के सात आश्चर्यों में से एक है ताजमहल। क्या आपको मालूम नहीं है कि पिछले दिनों ताजमहल को भी क्षति पहुंचाने की

कोशिश की गई? यही नहीं, अयोध्या के माध्यम से पूरे देश के अंदर जो कोहराम पैदा करने का काम किया गया, क्या वह आतंकवाद की श्रेणी के अंतर्गत नहीं आता है? कांग्रेस ने टाडा का कानून बनाया था, मीसा का कानून बनाया था, लेकिन इन्होंने खुद यह स्वीकार किया कि उनका दुरुपयोग हुआ है और इन्होंने उसके दुरुपयोग को देखते हुए, इसको आगे बढ़ाने से इंकार कर दिया था।

महोदय, पोटो अध्यादेश का विरोध हम इसलिए नहीं कर रहे हैं कि आप इसको लाए हैं बल्कि यह हमारा सीधा आरोप है कि पोटो अध्यादेश, जिसे आप कानून बनाने के लिए विधेयक की शक्ति में यहां आए हैं, इसका इस्तेमाल सरकार आतंकवाद के खिलाफ तो कम करेगी, अपने विरोधियों के खिलाफ ज्यादा करेगी और इसका सीधासादा उदाहरण है कि टाडा, जिसको जम्मू-कश्मीर और पंजाब में उस समय व्याप्त आतंकवाद पर अंकुश लगाने के लिए बनाया गया था, उसका इस्तेमाल वहां कम हुआ और देश के अन्य भागों में उसका सबसे ज्यादा प्रयोग हुआ था।

महोदय, यह हम नहीं कह रहे हैं बल्कि सुप्रीम कोर्ट के पूर्व प्रधान न्यायाधीश माननीय मिश्र जी, दिल्ली हाइकोर्ट के पुराने मुख्य न्यायाधीश राजेन्द्र सच्चर जी और मानवाधिकार आयोग के न्यायाधीश जी.एस. वर्मा जी ने भी यह माना है कि इस अध्यादेश से आतंकवादी तो नहीं पकड़े जाएंगे, लेकिन इस देश के निर्दोष नागरिक, जिनमें पत्रकार भी शामिल हैं, वे जरूर गिरफ्तार किए जाएंगे। सरकार से मेरा सीधा सा एक प्रश्न है कि टाडा कानून समाप्त हुए छः वर्षों के बाद भी व्यतीत हो गए हैं, इन दिनों में आपके सामने ऐसी कौन सी कठिनाई आ गई कि आपको इस प्रकार के कानून को लाने की आवश्यकता पड़ी?

महोदय, देश में वर्तमान आतंकवाद सीमापार से प्रायोजित है और सीमापार से जो आतंकवाद प्रायोजित है, उसे रोकने में मैं समझता हूँ कि यह कानून सक्षम नहीं है। 13 दिसंबर की घटना इस बात की गवाह है। उस दिन भी पोटो का अध्यादेश लागू था, लेकिन पोटो जैसा कानून इस आतंकवाद को रोकने में सक्षम साबित नहीं हुआ है। इसके जीतेजागते उदाहरण आप और हम सभी लोग हैं। इसलिए हम आपसे कहना चाहते हैं कि इस पर आपको पुनर्विचार करना चाहिए। आतंकवाद को रोकने के लिए आपको दृढ़ इच्छा शक्ति का परिचय देना होगा।

महोदय, आज जो आतंकवादी सीमापार से आ रहे हैं उन पर आपको कड़ी दृष्टि डालनी होगी कि सीमा पार से जो आतंकवादी आ रहे हैं, उसके क्या कारण हैं। हमने सीमा पर जिन्हें तैनात किया है, सीमा की रखवाली की जिनको हमने जिम्मेदारी दी है, क्या उन्होंने अपने कर्तव्य का पालन किया है या नहीं? जम्मू-कश्मीर के अंदर जिस तरह से आतंकवादी जड़ें जमाते चले जा रहे हैं, जिस तरह से सीमापार से आतंकवादियों की बड़ी खेपें बार-बार आती चली जा रही हैं, वे कहीं न कहीं सीमा पर जो हमारी व्यवस्था है, उसमें जो हमारी खामियां हैं, उनको रेखांकित और उजागर करने का काम करती हैं। आज आर्थिक अपराधों को रोकने के लिए एस्मा और कोफा पोसा जैसे कानून पहले से ही हमारे यहां मौजूद हैं, फिर इस तरह के कानून की क्या आवश्यकता है?

महोदय, लॉ कमीशन ने यह सुझाव जरूर दिया था कि टाडा की जगह पर एक नया कानून बनाया जाए, लेकिन मैं मानता हूँ कि ऐसे कानून की जरूरत नहीं है। इस तरह के कानून राजनीतिक गतिविधियों को रोकने के लिए लागू किए जाएंगे। हम आपसे जानना चाहते हैं कि नजरबंदी कानून का विरोध आपके नेता और भारतीय जनसंघ के संस्थापक अध्यक्ष, डॉ. श्यामा प्रसाद मुखर्जी जी ने भी किया था। जब अमृतसर में आपकी राष्ट्रीय कार्य समिति की बैठक हुई थी, उस बैठक में भी इस पोटो के कानून के सवाल पर विरोध हुआ था और प्रधान मंत्री जी ने कहा था कि हम सर्वसम्मति और सर्वसहमति बनाकर इस कानून को लाने का काम करेंगे, लेकिन आपने अपनी राष्ट्रीय कार्य समिति के उस प्रस्ताव को भी नजरअंदाज करने का काम किया है।

महोदय, हम आपसे जानना चाहते हैं कि आज देश के अंदर तमाम अपराधी हैं, उन अपराधियों को आप गिरफ्तार नहीं कर पा रहे हैं। वीरप्पन को आप आज तक गिरफ्तार नहीं कर पाए। वीरप्पन को गिरफ्तार करने में कौन सी अड़चनें आपके सामने आ रही हैं? उत्तर प्रदेश में ददुआ गिरोह आतंक का पर्याय बना हुआ है। वह जब चाहता है, लोगों का दिनदहाड़े अपहरण कराने का काम करता है, लेकिन आप न तो ददुआ के ऊपर अंकुश लगा पाए और न ही वीरप्पन के ऊपर और फिर भी आप कहते हैं कि हम कानून बनाकर आतंकवाद का मुकाबला करेंगे?

महोदय, 13वीं लोक सभा के गठन के पश्चात्, वर्ष 1999 के अंतिम दिनों में, जब काठमांडू से भारतीय विमान का अपहरण हुआ था, तो आप बताएं कि आपने दुर्दान्त आतंकवादियों को जेल से रिहा किया था या नहीं किया था? आपके ही विदेश मंत्री ने उन आतंकवादियों को कंधार तक ले जाने का काम किया था या नहीं? जैसे दामाद की सेवा की जाती है वैसी ही सेवा करते हुए आपने उन्हें कंधार पहुंचाया था या नहीं? इससे ज्यादा शर्मनाक स्थिति और क्या होगी? आपने देश के सम्मान और स्वाभिमान को रौंदने का काम किया था। हम आपसे कहना चाहते हैं कि अगर आप चाहते हैं कि देश में सीमा पार से आतंकवाद पर अंकुश लगे, तो आपको देश के अगल-बगल की परिस्थितियों पर भी नजर डालनी होगी। भूटान जिसको आपकी मदद प्राप्त है, उस भूटान से असम के अंदर पनपने वाला उल्फा शरण ले रहा था या नहीं ले रहा था?

आज नेपाल के अंदर राजवंश घराने की निर्ममतापूर्वक हत्या कर दी गई और आप मूकदर्शक बने बैठे रहे। बगल में बंगलादेश है जो हमारे कारण दुनिया के मानचित्र में नये राष्ट्र के रूप में उभरकर आया। वह बंगलादेश आज हमें चिढ़ाने का काम कर रहा है और जब चाहता है तब हमारे सैनिकों को गाजर-मूली की तरह काट देने का काम करता है। अगर हम अपने पड़ोसियों के साथ संबंधों को मधुर नहीं रखेंगे, सीमा पर चौकसी नहीं बरतेंगे और सीमाओं की रखवाली जिनके हाथों में दी है, उनके ऊपर नजर और लगाम नहीं रखेंगे, तो मैं साफ शब्दों में कहना चाहता हूँ कि ऐसे कानूनों से आप देश को नहीं बचा सकते। आज तक आप क्वात्रोची को गिरफ्तार नहीं कर सके। हम पूछना चाहते हैं कि क्वात्रोची, ददुआ और वीरप्पन जैसे लोग अभी तक गिरफ्तार क्यों नहीं हुए?

पूर्वोत्तर भारत के अंदर जो आतंकवादी गुट हैं, उन आतंकवादी गुटों से आप देश की सीमा के बाहर जाकर वार्ता करने के लिए तैयार हो रहे हैं। हम आपसे पूछना चाहते हैं कि क्या इससे आतंकवादी मनोवृत्ति और आतंकवादी गतिविधियों को बढ़ावा नहीं मिलेगा?

जम्मू-कश्मीर के जो आतंकवादी हैं, उनको आप जब चाहते हैं तब जेल से रिहा कर देते हैं और समाज के सामने हीरो के रूप में प्रस्तुत कर देते हैं। बाद में आप राष्ट्रपति जी के अभिभाषण के माध्यम से कहते हैं कि जिन लोगों का लोकतंत्र में विश्वास नहीं है, जिन लोगों की लोकतंत्र में आस्था नहीं है, जो आतंकवादी गतिविधियों को पनाह देते हैं, उनसे हमें दूरी बनाये रखनी चाहिए। ये जो दोहरी बातें हैं, दोहरी मानसिकता है, उसको जब तक आप समाप्त नहीं करेंगे तब तक आप आतंकवाद का मुकाबला नहीं कर सकते।

आदरणीय गृह मंत्री जी, हम आपसे एक बार फिर विनम्रतापूर्वक आग्रह करना चाहते हैं कि आज जो पोटो कानून आप इस सदन के पटल पर लेकर आये हैं, इस पोटो कानून का उपयोग निरीह लोगों पर होगा, कमजोर लोगों पर होगा। पोटो जैसे कानून का दुरुपयोग होगा और निश्चित तौर से चाहे आप सत्ता में रहें चाहे दूसरे सत्ता में रहें, अपने राजनीतिक विरोधियों के खिलाफ इसका इस्तेमाल किया जायेगा। विभिन्न दलों की राज्यों में सरकारें हैं, वे राज्य सरकार भी बदले की भावना से क्रिया की प्रतिक्रिया स्वरूप इस तरह के कानून का दुरुपयोग करने का काम करेंगे।

इसलिए मैं आपसे चाहता हूँ कि देश हित में इस तरह के कानून को आप वापिस लें और दृढ़ इच्छाशक्ति का परिचय देते हुए सेना को उच्च कोटि के हथियार मुहैया करते हुए और खुफिया एजेंसी की सतर्कता को बढ़ाते हुए आप आतंकवाद का मुकाबला करने का काम करेंगे और आतंकवाद की जड़ पर हमला करने का काम करेंगे तो समाजवादी पार्टी तत्परता के साथ आपको सहयोग करने के लिए तैयार रहेगी। लेकिन अगर एक कौम विशेष को लांछित करने के लिए, एक कौम विशेष को जलील करने के लिए, एक कौम विशेष को अपमानित करने के लिए, एक कौम विशेष के मन में भय पैदा करने के लिए इस तरह के कानून का दुरुपयोग करेगी तो हम बराबर

इस कानून का विरोध करते रहेंगे, करते रहेंगे, करते रहेंगे।

श्री आनन्दराव विठोबा अडसुल (बुलढाना) : सभापति महोदय, आतंकवाद निवारक विधेयक 2002 का मैं अपनी पार्टी शिव सेना की ओर से समर्थन करने के लिए खड़ा हुआ हूँ। 20 सालों से हम आतंकवाद और सीमा पार आतंकवाद का मुकाबला करते आये हैं। आज तक 61 हजार निरअपराध लोग मारे गये हैं और 8 हजार सुरक्षाकर्मी मारे गये हैं। गये एक वार्ड में लालकिले पर, जम्मू कश्मीर की असेम्बली पर, संसद भवन और कलकत्ता में एम्बेसी आदि पर आतंकवादियों ने हमले किये हैं। ये ताजी घटनाएँ हैं लेकिन तब भी आज इस विधेयक का हमारे विपक्षी भाई क्यों विरोध कर रहे हैं, यह मेरी समझ में नहीं आता है। महाराष्ट्र में कांग्रेस की सरकार है और पोटो जैसा कानून वहाँ लागू है। तब भी हमारे कांग्रेसी भाई इसका विरोध करते हैं। महाराष्ट्र के उप मुख्यमंत्री और गृह मंत्री श्री छगन लाल भुजबल ने शुरू-शुरू में पोटो का समर्थन किया। *

एक और आश्चर्य की बात लगती है कि आज सुबह उड़ीसा असेम्बली के ऊपर जो हमला हुआ, उसका निोध करते वक्त हमलावरों पर पोटो लगाओ, ऐसी भाषा हमारे कांग्रेसी भाइयों ने की।

यह राजनीति क्या है, यह बात समझ में नहीं आती।

आज पूरे देश में कहीं भी कोई घटना घटती है, कल हम सबने टी.वी. में देखा, लखनऊ में एक आतंकवादी पकड़ा गया और उस आतंकवादी द्वारा दी गई जानकारी के मुताबिक केन्द्रीय गुप्तचर विभाग ने मुम्बई के नजदीक उरन ऑयल टर्मिनल को उड़ाने के प्लान में छः लोगों को पकड़। जिससे हमारे देश में एक बड़ा हादसा होने से बच गया। जब अमरीकन वर्ल्ड ट्रेड सेंटर पर हमला हुआ तो विश्व के सब देश आतंकवाद के खिलाफ इकट्ठे हुए और सबके दिल में यह बात आई कि आतंकवाद के खिलाफ अलग से एक कानून बनाना जरूरी है और बहुत से देशों में ऐसा कानून है भी।

13 दिसम्बर की घटना के बारे में मैं कहना चाहूँगा कि उस दिन हम सब भगवान की कृपा से बचे, हमारे सुरक्षाकर्मियों की वजह से बचे। यदि उस दिन आतंकवादी अंदर आ जाते तो आज हम लोग जो यहाँ बैठे हैं, नहीं बैठे होते। इसे हम भूल गए। जब हम विपक्ष में हों तो हर बात का विरोध करें, यह राजनीति मेरी समझ में नहीं आती।

***Expunged as ordered by the Chair.**

गृह मंत्री आदरणीय लाल कृष्ण आडवाणी जी ने पिछले सत्र में यह कानून लाने की कोशिश की जिसका विरोध हुआ था। कुछ सुझाव आए। उन्होंने वह कानून वापिस लिया और आपके सुझाव के मुताबिक यहाँ दूसरा कानून लाए हैं। इसका भी आज विरोध हो रहा है।

अभी हमारे कानून मंत्री श्री जेटली ने, यह कानून क्या है और इसकी क्या जरूरत है, इसके बारे में इतनी अच्छी तरह समझाया। अगर हम समझ कर भी समझने वाले नहीं होंगे तो यह देश का दुर्भाग्य है, जनता का दुर्भाग्य है। कुछ लोग कहते हैं कि कुछ जातियों के लिए कानून लाए हैं, कुछ कहते हैं कि विरोधी पक्ष के लिए लाए हैं, यह कहना गलत है। आदरणीय जेटली जी का भाषण सुनने के बाद मुझे ऐसा लगता है कि अब इस बारे में किसी को बोलना जरूरी नहीं है। मैं इसलिए खड़ा हूँ कि हम इसका समर्थन करने वाले थे, करने वाले हैं और करते रहेंगे। आज सत्ता में हैं, कल विपक्ष में होंगे, इसकी हमें परवाह नहीं है, हमें देश की परवाह है। (व्यवधान) कल कुछ भी हो सकता है लेकिन यदि देश हित में देशद्रोही, आतंकवादियों के लिए कानून लाए हैं तो जो देशप्रेमी होगा, उसे डरने और चिन्ता करने की क्या जरूरत है। कोई भी कानून बने, उसपर अमल सही होना चाहिए, प्रमाणिकता से होना चाहिए, कठोरता से होना चाहिए, हम सबकी इतनी अपेक्षा जरूर है।

इन्हीं शब्दों के साथ मैं फिर से इस कानून का समर्थन करते हुए विराम लेता हूँ।

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Sir, I rise to oppose this Bill mainly on the ground that Government is not having any genuine reason to bring this Act. The Government is not genuine in implementing this Ordinance. It uses the law to threaten the people and uses it only for the purpose of satisfying the obligation given by the Security Council and USA. That is why, this very Bill is not having any definition regarding terrorism. Definition of terrorism is given in clause 3(1). That means the person who does the act is alone punished. That is, a person who is deciding to have terrorist activities is not punished. He is not covered in this Act and left scot-free. The person who decides that particular terrorist activity should be punished but is not covered in this particular Act. But there is another provision given for the purpose of punishing the persons who conspires or attempts to commit or advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist act or any act preparatory to a terrorist act but he gets less punishment rather than the person who is actually activated and who is actually used as a tool in the terrorist act. The person who is actually managing and commanding is going to get less punishment but a person who is working as a tool in the hands of the commander is going to be hanged and given death penalty. This shows that the Government is not intending to eradicate terrorism totally but just wants to satisfy somebody or some organisation or the Security Council obligation or just for the sake of bringing the Act, it has come forward with it. It is not having a holistic attitude and find out how best we can fight and eradicate terrorism because the name itself says "Prevention of Terrorism". Where is the act to prevent it? There is nothing to prevent it. According to the Law Minister, only after terrorist activity is committed, something will happen and only for that purpose, this legislation is enacted. Why then should we have it as Prevention of Terrorism Act? You may

have to put it as the Terrorism Bill. You have to say as to in which way it will help in preventing terrorism from being committed in this country. It seems that many of the clauses given previously in a similar legislation like the TADA are put here verbatim. TADA was having 30 sections but now, this is having 64 sections and much more explanations are there. But regarding the procedure alone, they have given explanations. Actually, they are taking away the powers of the court. They want to give more powers to the executive and prosecution. For example, the Law Minister has said that bail provision is there under normal law and it is very much flexible. But at the same time, this enactment gives more teeth to the bail provision so that bail can be rejected for an year. I would like to suggest that this Act gives more power to the prosecutor and not to the court. This is what I want to clarify here. This is the power given to the prosecutor and empowering the prosecutor to give bail when it is pending before the court. The court's hands are tied by allowing the entire provision in the hands of the prosecutor. I would like to read that particular provision alone which gives more power to the prosecutor than the court.

"Where the Public Prosecutor opposes the application of the accused to release on bail, no person accused of an offence punishable under this Act or any rule made thereunder shall be released on bail until the Court is satisfied that there are grounds for believing that he is not guilty of committing such offence. "

Here, the prosecutor is given total powers for one year. If the prosecutor does not accept, then they cannot get the bail. But at the same time it says:

"Until the Court is satisfied that there are grounds for believing that he is not guilty of committing such offence. "

The chargesheet will not be given to the accused because it would be delayed.. There is a provision which enables them to keep the person under police custody for 180 days and afterwards within 48 hours they can come with the confession and they can come with the accused before the court and get the consent of the court. Therefore, this provision of giving more powers to the Executive, especially to the prosecutor and prosecution agency creates a fear in the minds of the innocent. Clause 3(5) says:

"Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist acts, shall be punishable with imprisonment for a term which may extend to imprisonment for life or with fine which may extend to rupees ten lakh or with both. "

So, any innocent person can be made to show that he is part of the organisation. He would have contributed genuinely, like in the case of VHP, people donate money for building temple. Suppose, tomorrow the Government takes the stand that VHP should be banned, will those people also be punished under this provision? Can they be punished like that? This provision can very easily be misused by the ordinary policemen. That is why I would like to read the portion of the judgement which was given by the Supreme Court in Kartar Singh's case. I will read that portion alone which gives the entire picture. That was an important case wherein three judges went in favour of the confession which was made under the TADA Act. In Nalini's case also the confession was fortunately accepted by the court which alone led to conviction of six persons, but others were acquitted. In Kartar Singh case, Justice Sahay observed:

"There is a basic difference between the approach of the police officer and a judicial officer. The judicial officer is trained and tuned to reach the final goal by a fair procedure. The basis of the civilised jurisprudence is that the procedure by which the person is sent behind the bars should be fair, honest and just.

A police officer is trained to achieve result irrespective of the means and methods which is employed to achieve it. So long as the goal is achieved the means are irrelevant and this philosophy does not change by hierarchy of the officer."

This is the observation of the Supreme Court judge where he wants to say that the colonial mindset of police personnel has not changed at all even now. Under this particular provision the confession can be made before the police officer. Within 48 hours he can be produced before the court means, within that period the person can be compelled to give the confession. This is against the provision of the Constitution. Under Article 20, it is said that there should not be any compulsion. But here is a provision which gives the power to the Executive to use it against a particular person. By threat they can easily get it, even though they might not follow the provisions of Kartar Singh case, that they should warn the person that such and such deposition will go against him etc .

That can be written very easily. But, at the same time, that will be used against the ordinary, innocent people. In the same way, I would like to show that the evidence which is given under Clause 32, is going to be used against the innocent person. There is a provision under Section 164, Cr.P.C. which gives power for the court to get the

deposition from the accused. If a person confesses voluntarily, it can be recorded. Here, we are giving the powers to the police officer. The police officer very easily will get the consent of the person and he will ask the accused to depose against himself. That will be the core evidence. In the Nalini case, the Supreme Court has taken it for consideration. That type of a deposition can also be taken into consideration. Only on that basis, the conviction sustained even though TADA was not applied in that particular case. That case just escaped from acquittal. At least, for certain people, conviction was made. The other people ended in acquittal. In a law, this type of a special provision should be there very strictly. But here we see there is no provision to protect the interests of the innocent people and the people who will be in the jail for one year. They are going to get the charge-sheet only afterwards. Then, they have to agitate themselves to prove their innocence and come out.

Here, I would like to say certain things which have happened in Tamil Nadu under TADA. The case pertaining to the murder of Padmanabha is a very interesting one. Shrimati Subbulakshmi, who was an ex-Minister, was charged under TADA. I hope the DMK will know how they suffered it. The same Shrimati Subbulakshmi is now one of the office bearers of the DMK. She was imprisoned under TADA. She could not get the bail. Her case reached the level of Supreme Court and then only she could get the bail. In the same way, many people were arrested under TADA in Tamil Nadu. Many of the cases ended in acquittal. Will not the same thing happen now also? Will the DMK and the MDMK face the same situation?

Another thing I can bring to the notice of the House. One Shri Ravichandran, who is none other than Shri Vaiko's brother, was charge-sheeted under TADA. Will not the same thing happen again if POTO is implemented there? Will the DMK people and the MDMK people accept it? Therefore, these are things which can very easily show that an ordinary policeman can take vengeance. The ordinary politician can take vengeance. That is why, we say that this type of a thing should not be there. The ordinary law is sufficient. Here, the only thing is that there should be the will to implement the ordinary law; the will to see the accused person, a terrorist is convicted.

I would like to say that terrorists are not living after committing terrorism. They want to do it because of some reasons. We are not opposing many state laws. Those are the laws pertaining to *goondaism* and organised criminals. These people will live after committing the crimes. But the terrorists are tutored and asked to do a particular thing just for their own philosophy or for money. It is for this that they are doing it. There is nothing in the history to show that the terrorists were caught red-handed. Mostly, the terrorists will get themselves killed. After completing the work, they will get themselves killed. Who is going to be charge-sheeted? The person, the man behind them is to be charged. But here this Bill is totally silent regarding that aspect. A person who has asked the terrorists to commit terrorist activity is not at all covered in this Bill. That is why, we say that the Government is not coming forward with a genuine Bill. It is coming forward with this Bill only for the purpose of threatening the minorities and politicians who are not coming within their fold. That is the main purpose for which they have come forward with this Bill. That is why, we oppose this Bill tooth and nail.

With these words, I conclude.

***SHRI S. PALANIMANICKAM (THANJAVUR):** Hon. Chairman Sir, terrorism that takes up its ugly head inside the country and cross border terrorism are both condemnable. I do not think that any hon. member in this House holds a contrary view. All the members who participated in this discussion have strongly opposed terrorism and violence. During this discussion on the Bill that seeks to enact a law for the 'Prevention Of Terrorism', we have heard severe criticism against the move of the Government. This is because of the negative impact we have had with similar laws on earlier occasions. They were misused and abused earlier. That apprehension is in the minds of the people still.

We are legislating here. Whom do we entrust the responsibility with? This law must not be misused to seek revenge guided by personal enmity and political rivalry. We have seen its earlier version in the form of TADA. About 75 thousand people were put behind the bars under that Act. But how many were convicted finally? Just about 1% of them were punished under that Law.

We have seen the State of Maharashtra which has its own law now, misusing TADA earlier on. It had arrested under TADA about 15 thousand agricultural workers and farmers who merely resorted to democratic agitation. We have not provided for punishing those who foist false cases under this Law. When we enact this Law, we empower the police. Who has the courage to question the misdeeds of the police? It has become a trendy thing to arrest people first and then go in for framing cases searching for evidence only then. How people can resist the mighty police force? Most of the times it ends up as diabolical drama enacted by the police force in connivance with the powers that be at the state. When they go to the courts they say that there is no case. But they arrest people on Friday evening and release them Monday morning. We find already the misuse of existing laws. If people and political parties raise their voice against the might of the State, the respective state governments and the police departments use muscle men and goons against the aggrieved who seek justice. The police departments in some states are emboldened to foist false cases to suit the whims and fancies of their political masters. They do not

evinced interest to pursue justice in real cases with material evidence. They take pleasure in foisting false cases to please the powers that be. They are prepared to wait for even five years. Conscientious police officials who do not give scope for misuse are either transferred or asked to proceed on leave. I would like to recall an incident that took place in my constituency. A particular DSP went to a police station on inspection. The Sub-Inspector of the station was away on duty elsewhere. The DSP broke open the locks of the SI's table-drawer under the pretext that he wanted to see the documents pertaining to the progress of investigation in some cases. On return, the SI found his drawer opened forcibly and lodged a complaint and initiated a case against the DSP for his overstepped trespass. Such duty conscious and conscientious men in police department were also there. But today we have this kind of far-reaching laws.

We have the genesis of this kind of law in England during the war years. When England was facing either the attack or the aggression by the foreign forces, a near civil war situation arose in the country with the connivance of some foreign countries. Prevention of Detention Act was conceived in 1944 during the Second World War. About 200 people were put behind the bars under the provisions of that act. It was the Secretary of Home who had to authenticate such arrests. Now in our country under the proposed law, Secretaries to the governments of various States can sign orders to foist cases. This power should be vested only with the Union Home Secretary to avoid the misuse and its abuse. When we continue to follow the British system from the days of Macaulay there is nothing wrong in following their pattern.

We must seriously consider as to why such laws were withdrawn by the earlier governments and at times by those very governments which enacted them. Their abuse and misuse were among the causes for their withdrawal. Those governments not only failed to stem the menace they sought to curb but they also failed before the public eye and earned a bad reputation. Such laws when enacted in the past were also justified on the grounds that the then existing laws were not sufficient. But such laws seeking special powers were withdrawn later on for they proved to be a failure. Our leaders like Murasoli Maran were imprisoned under the provisions of MISA. We have had miserable experiences with such misadventurous laws. Hence we are deeply concerned about the plight of innocent people who may be implicated by such governments and police officials who may misuse this law. I want a solemn assurance from the Minister that this will not be used against the political adversaries.

***English Translation of the speech originally delivered in Tamil.**

19.00 hrs.

MR. CHAIRMAN : Now, Shri T.M. Selvaganpathi will speak.

SHRI PRIYA RANJAN DASMUNSI : Sir, I have listened to the interpretation of his speech. He did not clearly say whether he was supporting the Bill or opposing it. He has only expressed his danger about this Act. ...(*Interruptions*) Is he opposing or supporting it? ...(*Interruptions*) What is his stand? ...(*Interruptions*) He has neither opposed it nor supported it. ...(*Interruptions*)

SHRI T.M. SELVAGANPATHI (SALEM): Sir, I thank you very much for giving me this opportunity to deliberate on an important piece of legislation. We have before us an enactment to deal with the menace of terrorism.

I rise to support this Bill wholeheartedly and outrightly. I will deal with the point why we support it. We have got laws against black-marketeers. We have got laws to deal with the hoarders. We have a special law against smugglers. We also have got a law against bootleggers. We have got laws against violators of FERA. We have got laws against each and every specific form of crime. But we do not have laws against terrorism and terrorists. The legislation that is sought to be considered today is an important piece of legislation because it concerns the dignity and integrity of the nation.

What has happened during the last 15 years? The menace of terrorism has taken valuable lives of almost 61,000 civilians, 8,000 untiring Army personnel and policemen. Almost six lakh people have been rendered homeless because of terrorism in various parts of our country.

About Rs. 45,000 crore have been spent for tackling the insurgency. As the hon. Law Minister was pointing out earlier 48,000 tonnes of explosives have been recovered from the terrorist camps and terrorists, which could be

sufficient to blow up the entire nation. Even then we oppose such a law being enacted in this House. It is very unfortunate, we are divided on party politics. When it comes to the question of nation's integrity, petty politics come in the way and there is opposition to this law.

Sir, there are certain misgivings, which are well founded. I do agree. We want terrorism to be contained and curbed and we do not want the Government to be armed with necessary power; we do not want to arm the Government with necessary legislation to tackle terrorism. This is the unfortunate thing. There is no stringent law in our country to tackle terrorism.

What are apprehensions we have in this legislation? Of course, as far as Opposition is concerned, it is well founded because of the previous experience we had with MISA (Maintenance of Internal Security Act) and TADA. Our reasons are well founded. The argument goes, one is the misuse and the other is it can be politically motivated against a particular section or community. Thirdly, the fundamental rights and civil liberties will be taken away.

Sir, as far as my party is concerned, as against fundamental rights and civil liberties, the nation's integrity is paramount. I would say, a person cannot have individual rights, civil liberties as against the nation's integrity. I would say, the fundamental rights of any terrorist should be taken away and civil liberties should be given a go-bye when it comes to the question of nation's integrity and nation's interests. Therefore, we have to weigh the situation what exactly is important for the country and decide accordingly.

Sir, it is unfortunate that there is going to be a Division in this House when this legislation is put to Vote. Our enemy knows we are divided. We are dealing with a rogue State headed by Gen. Musharraf. We are not a match to the kind of cross border terrorism, the kind of sophisticated weapons they possess, the kind of sophisticated mass communication that comes to their aid. Our policemen are handling 303 rifles, whereas the terrorists are handling AK-47 assault rifles. This is the situation today. It is multi-ferocious, the gamut is so heavy, the magnitude of terrorism is spread throughout the country and each and every incident that occurs in this country we blame ISI. We accuse the foreign hand in it. We accuse the Pakistani Government aiding such terrorism, but such is the situation. Should we not have a piece of legislation which should be draconian against terrorism and not against ordinary citizens?

It would be draconian against those who wanted to divide this country and break this country. Sir, why was I worried about the division on this legislation? If we are united, I would rather say that this legislation would not have gone into the discussion at all. The legislation should have been passed unanimously so that we would have been placed in high esteem in the eye of the international community. All the time we have been requesting the United States, "Have you blacklisted this particular organisation? Here is an organisation which possess proceeds and property to carry out terrorism." We will be ashamed if they ask us back, "What is the piece of legislation in your country to tackle the terrorists?" We have no answer. Therefore, our Party is unanimous and wholeheartedly supporting this issue.

A Member from the Treasury Bench, while deliberating this issue, was raising eyebrow stating that even Jayalalithaji is supporting this Bill. I would tell my learned friend that our support is issue-based. This issue is concerning the nation. ...*(Interruptions)*

SHRI SOMNATH CHATTERJEE : Do not go to Chennai. ...*(Interruptions)*

SHRI T.M. SELVAGANPATHI : And that was the reason. I would answer Mr. Somnath ji that the terrorists cannot enter Chennai. Anybody can go to Chennai safely. ...*(Interruptions)* And those who abate terrorism, those who nurture terrorism and support them have to be kept away from Chennai. That is what our leadership has been doing right from the beginning.

Sir, I will tell you that our dynamic leader, Madam is a victim of terrorism. Sir, there were two black-marks in the history of Tamil Nadu. One was when the young and dynamic leader, Shri Rajiv ji was assassinated in that soil. The second one was when the life of the hon. Home Minister was attempted in Coimbatore, where a series of bomb blasts took place in which several hundreds of people lost their lives. In both these occasions, I would tell Mr. Somnath ji, Dr. Jayalalitha was not the Chief Minister. If she was there as the Chief Minister, Rajiv ji could have been saved, and no such occurrence would ever occur in the State of Tamil Nadu, and that is our history. ...*(Interruptions)*

SHRI T.R. BAALU: For your information, there was no Chief Minister at that time. ...*(Interruptions)*

SHRI T.M. SELVAGANPATHI : When the bomb blast was there, I would remind Shri Baalu, who was there in the Chair when the present Home Minister was attempted, and prior to Rajiv's assassination, who was ruling that State. ...*(Interruptions)*

SHRI T.R. BAALU: What do you mean by that? When Rajiv ji was assassinated, Governor's rule was there.

...(Interruptions)

SHRI T.M. SELVAGANPATHI : I would again reiterate – please listen – that when the assassination took place, Governor's regime was there, and I ask you who was in power prior to that assassination. ...(Interruptions)

SHRI T.R. BAALU: What do you mean by that? Do not impute motives. You will land in trouble. What is this? ...(Interruptions)

SHRI T.M. SELVAGANPATHI : The root of terrorism does not crop up all of a sudden, in a minute. ...(Interruptions)*

MR. CHAIRMAN : Please conclude. (Interruptions)

SHRI T.M. SELVAGANPATHI : Madam Jayalalitha was not in power....(Interruptions)

SHRI S.S. PALANIMANICKAM : Regarding that, I want to seek one clarification....(Interruptions)

MR. CHAIRMAN: No, let us not air our problems here....(Interruptions)

MR. CHAIRMAN: No clarification is allowed. (Interruptions)

*Expunged as ordered by the chair.

MR. CHAIRMAN: Shri Selvaganpathi, please conclude....(Interruptions)

MR. CHAIRMAN: Please sit down....(Interruptions)

MR. CHAIRMAN: Shri Kuppusami, please sit down....(Interruptions)

MR. CHAIRMAN: Shri Baalu, please sit down....(Interruptions)

MR. CHAIRMAN: Shri Palanimanickam, please sit down. (Interruptions)

MR. CHAIRMAN: Shri Krishnaswamy, please sit down....(Interruptions)

MR. CHAIRMAN: All the three hon. Members, please sit down.â€¦ (Interruptions)

MR. CHAIRMAN: Nothing will go on record. Whatever the hon. Members have spoken will not come on record.(Interruptions)*

MR. CHAIRMAN: Nothing will go on record except the speech of Shri Selvaganpathi.(Interruptions)*

MR. CHAIRMAN: Shri Palanimanickam, please sit down....(Interruptions)

SHRI T.M. SELVAGANPATHI : In my speech, I entirely concentrated on terrorism in Tamil Nadu. I am not making any objectionable statement to invite Shri Baalu to interfere. Now, the cat is out of the bag....(Interruptions)

MR. CHAIRMAN: Shri Baalu, please sit down....(Interruptions)

***Not Recorded.**

MR. CHAIRMAN: Should we examine that in detail? No....(Interruptions)

MR. CHAIRMAN: This entire matter will not come on record. Except his speech, nothing will go on record.(Interruptions)*

MR. CHAIRMAN: I have expunged the whole thing. Let the speech of Shri Selvaganpathi be recorded. Other things will be expunged.(Interruptions) *

MR. CHAIRMAN: That will also be expunged.

SHRI T.M. SELVAGANPATHI : Madam could have kept her cool.

MR. CHAIRMAN: Please conclude....(Interruptions)

MR. CHAIRMAN: I will take care of it.

SHRI PRIYA RANJAN DASMUNSI : Mr. Chairman, Sir, I seek your protection. Which part is expunged and which part is retained?

MR. CHAIRMAN: He said: "There is a motive." If there is a motive, I will expunge it.

SHRI PRIYA RANJAN DASMUNSI : Whatever Shri Baalu says will be expunged. Whatever he says will be retained. Is it your ruling?

MR. CHAIRMAN: I will examine and do it.

SHRI T.R. BAALU: When the RSS's office was attacked, bombarded, it was Ms. Jayalalitha's regime. He should not forget that. Why is he saying that?...*(Interruptions)*

MR. CHAIRMAN: I have expunged everything.

Please conclude.

***Not Recorded.**

SHRI T.M. SELVAGANPATHI : The remark I made was very simple. Prior to Rajiv Gandhi's assassination, who was in power? That was the only remark. I did not impute any motive....*(Interruptions)*

MR. CHAIRMAN: Please conclude. You have taken more time.

SHRI T.M. SELVAGANPATHI : I will wind up.

Madam Jayalalitha could have kept quiet considering the risk of life. But she took pains to check the LTTE menace on the soil of Tamil Nadu.

That is what is the answer to Shri Somnath Chatterjee. Therefore, there has to be an effective Government. The State Governments are handicapped without the necessary piece of legislation. Therefore, this is no less serious a legislation than the ones enacted in Maharashtra. Karnataka has also enacted a similar legislation; Andhra Pradesh has also enacted a similar piece of legislation.

The people of this country will not leave any Government to continue if it misuses power. We have to arm the Government. Let the Government be armed with this legislation. It is their duty to safeguard the interests of people and see that the power is not misused or abused against any particular section. If they do it, the people of this country are not going to leave them. As it happened in the case of MISA and TADA, people in power are going to be thrown out if there is any misuse. This is the history of this country.

After having witnessed the ugly scenes of attack on this Parliament, the temple of democracy, still we keep quiet, deliberate and debate on this important piece of legislation. I am sorry for that. I support this Bill wholeheartedly and thank you for the opportunity.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Thank you very much, Mr. Chairman, Sir. I rise to support the Prevention of Terrorism Bill, 2002. ...*(Interruptions)*

MR. CHAIRMAN : There is a list. I am calling the names by the list. I have not prepared it; the Secretariat has prepared it, party-wise and I am calling the names.

SHRI ANADI SAHU : This Bill and its earlier edition of the two Ordinances have had a tortuous course because of the intransigence of the Opposition and I am sorry to say that this stubbornness is visible during the deliberations today also.

It is rather unfortunate that some of the Opposition Members have run down the system and the innovations that are being thought of in curbing terrorism in this country. They do so with the sole purpose of glorifying themselves as role models of virtue, neutrality and impartiality. This mindset needs to be corrected immediately. ...*(Interruptions)*

I would request Shri Jaipal Reddy to kindly remain seated for a few minutes. I would start with my response to Shri Jaipal Reddy's speech. It was quite eloquent no doubt but elusive. I call it eloquent but elusive because he started with a hammer, to hammer the Government. When somebody has a hammer in hand, everything looks like a nail to him. That is the biblical proverb. When he started hammering the Government he looked at it intently but unfortunately he could not find any nail in the Government. Absolutely, an ivory-coloured backdrop was visible without any nail, without any blemish or without any pockmark. Naturally, he had to go to the other Government that has been there and hammer it. He started hammering it and unfortunately the hammer has hit his thumb, that is, the Congress Party, in which he is there. It has hit the thumb of his party itself because he started with TADA.

19.24 hrs (Shri Shrinivas Patil *in the Chair*)

So far as TADA is concerned, I would like to remind him of a dictum in logic. The dictum is: "Whatever is compatible with the antecedent is also compatible with the consequent." The TADA had one antecedent. That is why whatever was done under TADA was according to that antecedent. When you think of the consequent at this stage, you have to think of the antecedent. The antecedent was the enactment of TADA and the deliberations that took place from time to time in extending TADA over a period of years.

Now, I go into the TADA itself on why the antecedent was bad.

In the TADA, apart from other things, there are two clauses which had created problems - one is alienate any section of people or adversely affect harmony amongst different sections of people, and second it is about disruptive activities etc. These are the two provisions which created problem. As I said, the antecedent was bad and that is why the consequent also becomes bad. Taking these facts into consideration the Prevention of Terrorism Bill has already eliminated these ingredients. So, the antecedents cannot be incorrect now.

On the second point of hon. Member Shri Jaipal Reddy, he wanted to find out a nail here and there; he attacked TADA. The second point is about the definition itself. He said there is no definition about terrorism and only Terrorist act has been indicated. If I am not correct, kindly correct me. Now, what is terrorism? Let us go to 'terror' itself. Terror is 'to inflict fear in the minds of others'. That is terror - to set fear in the minds of others. Those persons who commit the act are called terrorists and the act itself is terrorism. There is no necessity of further definition of terrorist act or terrorism as such. That is why, as you said, the second nail that he tried to hit has been off the mark considerably. I will not go into the other hammerings he tried to do because there are no nails and they went off here and there.

The ground realities have to be taken into consideration when we think of enacting a legislation. That is most important. When we take up the ground realities we see the lightning speed in which the terrorists and persons with disruptive activities and persons who want to create problems in this country have been operating. That is why it requires a sharp, precise and quick enforcement of legal procedures. It should be sharp and precise and it has to be very effective because these three ingredients have to be taken into account whenever we think of a new legislation; whenever we think of amending a legislation to ensure that proper work is done.

I would remind the Opposition to think of the Explosive Substances (Amendment) Act. It was taken place only very recently. We have provided maximum punishment in the Amendment Act. We have provided for presumptive evidence. We have provided for many things going away from the Evidence Act because the explosive substances or the special explosive substances have been coming into this country clandestinely or regularly with a view to create problems in this country. That is why we have amended those provisions.

Only the day before yesterday we have amended the Passport Act. In the Passport Act itself you will find it in the Statement of Objects and Reasons that "because of the security reasons prevailing in this country it is necessary that the Passport Act should be amended." What was the amendment? It is a transitory provision. It is transitional provision with the sole purpose of preventing people from going away after committing depredations in this country. That is why the last sentence is there. The persons who have seen this Act itself would know as to what is the scenario that is prevailing in this country at this particular moment of time.

Now, the realities are that the terrorists, the insurgents, the militants, the covert operators try to destabilise the system. They go with a lightning speed, with innovative methods and utterances. Their supporters make lots of noises. I would come to the utterances themselves. You take the case of Shahi Imam of Jama Masjid. He called the faithful to go against the country itself. He called the faithful. You take the case of Prof. Gilani relating to the 13th December incident. He had sheltered a number of people. He had given shelter to them. An amount of Rs. 22 lakh was kept by them. How did this money come to them?

I am not talking of utterances themselves of the Shahi Imam; I am not talking of the sheltering of the terrorists who come from different places; I am talking of the disruptive activities of people who are supposed to be Indian nationals but are renegades and traitors. Shri Hannan Mollah raised a point saying why not Bajrang Dal and VHP etc. be brought under the Schedule of this Act itself. I would remind him, Sir, to go through the Unlawful Activities (Prevention) Act, 1967. Certain provisions have been provided there as to which are the associations which commit unlawful activities. I would request him to go through Section 2 of Unlawful Activities (Prevention) Act which says, and very correctly so, that 'whichever organisation with a view to secession or cession from the country, is to be declared as unlawful organisation or association or body.' I would ask Shri Hannan Mollah whether he has an iota of doubt that VHP or Bajrang Dal does want secession or cession from this country. Kindly think of it. How can he take them to be unlawful groups or association? ...*(Interruptions)* No, I cannot yield. My thought process will get disrupted. ...*(Interruptions)* No, I cannot yield. ...*(Interruptions)* Mr. Chairman, Sir, please help me.

MR. CHAIRMAN : Shri Hannan Mollah, please do not interrupt him. ...(*Interruptions*)

SHRI ANADI SAHU : Sir, he should think of this thing. As I said, it has to be thought of as to which are the people who have been creating problems for this country.

You have a grim reality in Jammu and Kashmir where a large number of groups are trying to either secede or to create problem for this country. I would not name all those associations or bodies. They are about eight or ten, but the grim reality remains that two of the bodies, which had been declared as unlawful in Pakistan, have now become lawful in Pakistan. They are collecting money. About 800 or 1,000 *jehadis*, who are members of these organisations, have been released by Pakistan. Does he not think that they would come to this country and try to destabilise us and whatever problems we have, they would be worst compounded when these organisations will get support from across the border?

Now, what is the ISI doing? They are trying to organise drug-trafficking through India. Once they get money from these organisations, from the ISI and drug-trafficking takes place, what would be the situation for this country? Are they not terrorists? Are they not the people who are helping in harbouring criminals with terrorist mentality?

As I said, the three things are most important in this Bill dealing with terrorism. These three things are the intent, the mode and the effect. These are the three things which have to be taken into account. What is the intent of a person who is a terrorist? What is the mode he adopts to create problems for the society? What is the effect of this type of activity? These are the three things. I am not going into the details. Shri Jaipal Reddy and Shri Arun Jaitley have gone into the details of these things. We have to keep in mind three things – the intent, the mode and the effect.

Now, what are the intentions? How do they operate? What is the effect? How to curb these three types of activities of the terrorists? In order to curb these activities, there must be certain law which has to be precise and effective. Shri Arun Jaitley was talking elaborately about how it can be precise and effective.

He was talking of confession to a police officer. I was a police officer. I was the Superintendent of Police some 25 years back. Do we not think that there are also some police officers who do good work? How can Sri Reddy castigate a rank of police officers saying that they are bad? ...(*Interruptions*) No, Sir, I cannot. ...(*Interruptions*)

Only three days back, the Bureau of Police Research and Development, BPRD had organised a seminar and Justice Verma was also there.

My good friend, Shri L.C. Amarnathan, is the Director General of BPRD. I read in the newspaper. I was very happy when Justice Verma said: "Yes, empower the Superintendent of Police to record confessions." The Law Commission has said that the probative value of confessions has to be tested. How do you test the probative value of the confessions made? It has been indicated in the Bill that they will be produced before the Chief Metropolitan Magistrate, Chief Judicial Magistrate, within 48 hours.

Our Evidence Act was enacted some 115 years back. There are two provisions in the Indian Evidence Act -- sections 25 and 27. Section 25 prohibits any confession before a police officer to be recorded, but section 27 has a rider. What have the police officers been doing for the last 115 years? We are taking recourse to section 27 of the Evidence Act to get some evidence to be placed before the court. In a way, it is a subterfuge, in a way it is a camouflage. Why the camouflage, why not give the powers to the Superintendent of Police to act in a manner which is befitting for this particular Bill itself?

Shri Jaipal Reddy has gone away. He was saying that the person who is making confession, if he has been assaulted, he will be sent for medical examination, and the matter ends there, and no other follow-up action has been thought of. May I remind him, Sir, the Indian Penal Code provides that if a person is tortured with a view to elicit confession from him, the police officer will be liable for prosecution. Cognizance can be taken, and it is a cognisable offence also. Now, the court, in its wisdom, can enquire into it under section 202 of the Code of Criminal Procedure or can take cognizance and start a trial. It is not necessary that the Prevention of Terrorism Bill has to provide for it. It is not necessary at all, because it is a natural corollary.

Now, there is an argument that all the provisions in the general laws have been brought in. General laws and special laws are different. A special law is enacted with a special intent and purpose. This is a special law. It is a sunset law. For three years, it will remain. I am thankful to Shri Somnath Chatterjee, he is not here, who had raised one very good point during discussions in another forum. He has raised the point that one person was arrested in Jammu and Kashmir under POTO, but the Special Court had not been set up, where does that person go? That is why clause 35 has been included in this Bill itself. We must be thankful to the Home Minister that he has taken care of this thing. The transitional provision has been provided that there will be, till a Special Court is constituted, the Sessions Court will try the matter.

Since I do not like to take much of time, I would only say what are the safeguards which have been provided in this

Prevention of Terrorism Bill. The Prevention of Terrorism Bill does not encompass many other things. You will find from the British law on terrorism that they have taken up lots of things within the ambit of the definition. In the British law which has been passed, they call it PAT, we call it POTO, they have said: "Commission, preparation, instigation are acts of terrorism." They have also indicated that the wide definition of terrorism includes, 'not only the use, but also the threat of action involving serious violence against a person or serious damage to property or design to seriously interfere or disrupt an electronic system.' They have included that also. The electronic system, if it is disrupted, it is also terrorism. Their definition has taken a wide connotation, but we are confining ourselves to the grim reality that is being faced by us everyday.

Now, Sir, I will only indicate the safeguards the Bill has provided. The first and the most important is, "Investigation of cases to be made by officers of and above the rank of ACP or DSP."

It is either the Assistant Commissioner of Police in the Metropolis or the Deputy Superintendent of Police elsewhere. That is the first safeguard that has been provided. You have certain safeguards in the Prevention of Corruption Act of 1988 where it has been said that only officers of a certain rank should be the investigating officer. This Bill has gone beyond that. An ACP or a DSP can only be the Investigating Officer. That is the first safeguard.

Secondly, the property that represents the proceeds of terrorism is to be seized by the IO not below the rank of the Superintendent of Police with the prior approval of the Director General of Police (DG). You see the kind of safeguards that have been provided for in this Bill. This property is not to be transferred except with the approval of the Designated authority and the Special Court. The Special Court thing has come in because it was thought necessary that after the designated authority, the Special Courts should also be there. Then it has been said that information of such a seizure to be sent to the designated authority or the Special Court within 48 hours. Please look at the safeguards that have been provided.

Mr. Chairman, Sir, so far as the interceptions are concerned, it is the competent authority which has to authorise for interception. I would come to that later on.

MR. CHAIRMAN: The time allotted to your party is over now. Please conclude.

SHRI ANADI SAHU : Sir, these are very important points. Please allow me another five to six minutes.

MR. CHAIRMAN: Please make your points quickly.

SHRI ANADI SAHU : Sir, confessions before a police officer needs authentication by the Chief Judicial Magistrate (CJM). As I said earlier, the probatory value has to be found out.

The next point is that the designated authorities shall have the powers of a civil court. Here the designated authority is not an Administrative Officer alone but he would also have the powers of a civil court. Mr. Chairman, Sir, you have come across all these things. As an Administrator you also have exercised some powers, in a way so far as the civil courts are concerned. When one has the powers of a civil court, he or she has a lot of power. I would not like to dilate on that. Then, it may confirm or reject the order of attachment. The appeals would go from the designated authority to the Special Court.

The fifth point is about the constitution of the Special Courts. It says that the Central Special Courts shall take precedence over the State Special Courts. I think this point had been raised by Shri Jaipal Reddy. When there are two Special Courts, one at the Central level and the other at the State level, the Central Special Court would take precedence over the State Special Court. The Supreme Court may transfer cases from one Special Court to another Special Court. That is a good protection that has been given in this Bill.

The next point is that there shall be a review Committee consisting of a Chairperson and not more than three other members. The Chairperson shall be a serving or a retired judge of the High Court. Appeals against the judgement or sentence shall lie to the High Court from the Special Court which shall be heard by a Bench consisting of two judges. Interceptions are to be authorised by competent authority not below the rank of a Secretary or a Joint Secretary. The competent authority shall submit a report to the Review Committee of the orders of interception within seven days. The next point is very important. It says that the annual report of the interceptions are to be placed in both the Houses of Parliament. What more protection do we need?

Mr. Chairman, Sir, the next important point is the custody memo. Custody memo of persons shall be prepared and the arrested persons shall have the right to consult a legal practitioner and in case of *malafide* compensation is to be paid and normal bail provisions will apply after one year.

Sir, I now come to Section 167 of the Criminal Procedure Code but since you are already looking at me with frowned eyes, I would not like to go into the details of it. In this case only the time has been extended up to 180 days. But there is a provision for a summary trial. This is the most important thing. It is not necessary that the

Administration would be vindictive. Here there is a provision for a summary trial. In summary trial three months is the period of conviction but here it has been relaxed.

Sir, as per clause 62, rules are to be elaborately re-framed. It has been indicated here. Before I conclude I would request my friends from the opposition to hear an English verse. It says: "How many years must one have before he can hear people cry? How many deaths will it take till he knows that too many people have died. The answer my friends is blowing in the wind" ..

The answer, my friend in the Opposition, is blowing in the wind. Let the wind not become a tornado. Let us stop it here.

SHRI C.K. JAFFER SHARIEF : Mr. Chairman, Sir, what the Member, who just concluded his speech, spoke at the end of his speech is very relevant in the context of the recent incidents in Ahmedabad in Gujarat. I am glad that there is some sense left, in spite of all the arguments that may be placed before us.

My learned friend Shri Arun Jaitley is not here. He is a good advocate for all bad cases. Anyway, as Shri Jaipal Reddy spoke eloquently from our side, Shri Arun Jaitley spoke from the Treasury Benches. I do not want to score points on debate. I just want to make my point based on the experience we have had when TADA was in force. There was some kind of sarcastic observation made to the effect that Congress was responsible. Yes, as this Government is now contemplating to find appropriate measures, the Congress also brought certain measures into force. But what is required is experience. Lessons have to be learnt from experience. What is our experience?

It is the political will which is necessary, not a piece of legislation. I do not know whether the hon. Home Minister, who demonstrates himself to be an iron man, is lacking in that political will; and I do not know if he wants to arm himself with this piece of legislation because of that reason. You can bring any number of pieces of legislation into force. Ultimately, if you do not have the political will in the governance of the country, a piece of legislation can hardly be of any help.

As a Member of the Government, as a Member of the ruling party, I revolted against the misuse of TADA and I paid the price. I lost my job in the Government. I was implicated even in a false case in which even the hon. Home Minister was also implicated. The same Shri Arun Jaitley was the advocate for the Minister then. I had a different advocate. Laws can be well-founded. But the machinery to which we give this power is important. The gentleman who spoke last said that he was a police officer. He would be well aware of this importance. I am not questioning the record of that gentleman, although he has taken the side on which he is now. The point is, we are explaining to you the kind of abuse a law can lead to. Who is asking you to compromise with the security of the country?

Nobody is telling you. The other day, we spoke from the same Benches asking you to fight and finish Pakistan. But in the name of Pakistan, why do you target innocent people? Can the Home Minister – whatever may be his good intentions – go and see what kind of situation is prevailing? Mr. Home Minister, I am respectfully submitting to you. You were not in the Government at that time, but we were in the Government. Whether it was Maharashtra or Gujarat or at the Centre, we were in the Government. We found fault with that; the whole Congress Party revolted and the rest of the Members from the Opposition Benches also revolted. So, TADA was repealed. TADA did not go through – as somebody rightly pointed out – when it was to be passed in the Rajya Sabha. Then, it lapsed. It is the bitter experience, the apprehensions or the well-founded fears of the weaker sections of the society, which are to be taken note of.

We advance arguments here; we talk of safety and security of the country. Nobody is asking you to compromise; we talk about peace and law and order; nobody is asking you not to deal with the situation. They say that in a law like this which is required in the larger interest of the country, the House is divided on party lines. Nobody is divided on party lines. Arguments which were advanced from this side have never been answered by that side. What we find is that they divert, deviate and put it again to this side. Is that the answer? That is not the answer. The answer should be based on logic and the answer should be based on the experiences.

I do not want to take much time of the House. I honestly and sincerely, with all humility at my command, appeal to the Government to demonstrate the political will. The existing law has got enough teeth. If there is no teeth, then one can understand that a new legislation is required. When the existing law has got enough teeth, you can deal with the situation, provided you have a will. If you do not have a will, and if you want legislation after legislation, then one cannot help. If you do not use the laws properly, one cannot help. At this point of time, in the backdrop of what has happened in Gujarat, you will be creating apprehensions and fear in the mind of the minority community in

this country. Whom do you want to silence, by passing these laws? Who is coming in your way to fight terrorism?

Many of them referred to Shri Rajiv Gandhi's assassination. It is the Congress Party which has paid the supreme sacrifice of terrorism and none of them, from that side.

If a law is required to deal with the terrorists from across the border or to deal with the people who create terror within the country, why not you bring the whole gamut into that piece of legislation? If you had done that, the weaker sections of this country, the minorities in this country would have had confidence in the Government and people – maybe from any section of the society – would feel that the Government has had this bitter experience and that the Government has demonstrated the will to combat not only terrorism from across the border, but also the reign of terror which has been lashed out from within the country.

With these words, I thank you very much for giving me this opportunity.

श्रीमती रेनु कुमारी (खगड़िया) : सभापति महोदय, मैं 'पोटो' यानि आतंकवाद निवारण विधेयक, 2002 के समर्थन में बोलने के लिए खड़ी हुई हूँ। संसद से लेकर चौपाल तक इस पर चर्चा जारी है। इस पर बहुत चर्चा हो चुकी है, इसलिए मैं कुछ ही बातें कहना चाहूंगी। 'पोटो' में जो धाराएँ हैं, उनके दायरे में सात तरह के लोग सीधे तौर पर आते हैं। आतंकवादी, प्रतिबंधित आतंकवादी संगठनों के सदस्य, आर्थिक सहयोगी, उनके समर्थक, आतंकवादियों के बारे में सूचना रखने वाले और पनाह देने वाले और आवश्यक सेवाओं की आपूर्ति ठप्प करने वाले ये सभी लोग 'पोटो' की गिरफ्त में होंगे।

इस कानून में आतंकवादियों का समर्थन करने वालों को भी उतनी ही सजा देने का प्रावधान है जितना कि आतंकवादी संगठनों के सदस्यों को हो सकती है लेकिन मैं आपके माध्यम से सरकार से जानना चाहती हूँ कि यह तो ठीक है कि अगर कोई व्यक्ति आतंकवादियों को समर्थन करने का दोगी पाया जाता है तो उसे दस वाँ के कारावास की सजा हो सकती है लेकिन जो व्यक्ति पत्र-पत्रिकाओं में लेखन के माध्यम से सहायता करते हैं तो उनको क्या सजा मिल सकती है? आतंकवादियों को धन उपलब्ध कराने वालों को तीन वाँ के कारावास की सजा का प्रावधान है लेकिन मैं जानना चाहती हूँ कि आजकल आतंकवादी ए.के-47 के माध्यम से जबर्दस्ती करते हैं, जैसे कि अपहरण कर लेते हैं और हत्या की धमकी देकर पत्र लिखते हैं और फिर करोड़ों-करोड़ों रुपये का सौदा करके लोगों को छोड़ते हैं तो जिससे जबर्दस्ती चंदा उगाही का काम लोग करते हैं, उनके लिए सजा का क्या प्रावधान है? इसी प्रकार से संरक्षण देने वालों को भी 'पोटो' में तीन वाँ की सजा का प्रावधान है लेकिन यह स्पष्ट नहीं किया गया है कि जो आतंकवादी हथियारों के बल पर जबर्दस्ती पनाह लेते हैं, उनको किस श्रेणी में रखा जाएगा? क्या उन्हें भी उतना ही दोगी माना जाएगा जितना कि बुरे इरादों और जानबूझकर आतंकवादियों को सहायता देने हेतु पनाह देने को कानून दोगी मानता है?

यह सच है कि सरकार को शासन चलाने के लिए कानून का निर्माण और उसका पालन करना पड़ता है। आजादी के बाद से ही इस देश में सामान्य कानून से हटकर पचास वाँ में कांग्रेस ने सख्त कानून बनाए और उन्हें पास कराकर लागू भी किया। आश्चर्य तो तब होता है जब इस देश में दो-दो प्रधान मंत्री श्रीमती इंदिरा गांधी और श्री राजीव गांधी, पंजाब के पूर्व मुख्य मंत्री श्री बेअंत सिंह के साथ-साथ इस देश में लगभग साठ हजार से अधिक निर्दोष लोग आतंकवादी हमले में मारे गये और कांग्रेस पार्टी ने स्वयं आज भी अपने कई राज्यों में इससे भी सख्त कानून लगाये हैं लेकिन बड़े दुख के साथ कहना पड़ रहा है कि आज ऐसी ही पार्टी ऐसे कानून का विरोध कर रही है जिसने अपने राज्य में इस कानून को लगाने का काम किया है। 1950 में आतंकवादी निरोधक कानून बना था। 1954 में डिफेंस ऑफ इंडिया रूल बना था। 1962 में आर्म्स फोर्स स्पेशल पॉवर एक्ट बना था जिसमें जम्मू कश्मीर तथा पूर्वोत्तर राज्यों की पुलिस को यह अधिकार दिया गया है कि बिना मजिस्ट्रेट की आज्ञा से जिसे चाहे गिरफ्तार कर सकती है। 2 जुलाई 1971 में 'मीसा' आया, इमर्जेंसी देश में लागू की गई और 'मीसा' के अंदर ही लोक नायक जय प्रकाश नारायण, मोरार जी देसाई, चन्द्रशेखर जी तथा अटल बिहारी वाजपेयी जैसे हजारों लोगों को इन्हीं कांग्रेस वालों ने बिना कसूर जेल में भेज दिया और जेल में सड़ने के लिए मजबूर किया।

20.00 hrs.

जनता पार्टी की सरकार 1977 में सत्ता में आई और उन्होंने उस कानून को खत्म किया। जिस तरह से मीसा के अन्दर देश के राजनेताओं को गिरफ्तार किया गया, क्या ये लोग इसलिए डर रहे हैं कि इनको भी गिरफ्तार किया जाएगा। 1980 में सत्ता में लौटने के बाद श्रीमती इंदिरा गांधी ने नेशनल सिक्योरिटी कानून बनाया। 1984 में आतंकवाद प्रभावित क्षेत्र अधिनियम बनाया, जिसमें सजा देने का प्रावधान था। 1985 में राजीव गांधी जी सत्ता में आए और उन्होंने भी आतंकवाद को कुचलने के लिए टाडा बनाया। टाडा का भले ही दुरुपयोग हुआ हो या उपयोग हुआ हो, लेकिन उन्होंने टाडा कानून बनाया, संसद में पास करवाया और उसे लागू किया। कर्नाटक और महाराष्ट्र में कांग्रेस की सरकार है और इस कानून को लागू किए हुए हैं, लेकिन ये इसका विरोध कर रहे हैं, यह कितने लज्जा की बात है।

सभापति महोदय, देश में जिस तरह से आतंकवाद बढ़ रहा है, इसको रोकने के लिए पोटो कानून की आवश्यकता हुई है। कल मैंने अपने भाषण में बताया था कि खगरिया लोक सभा निर्वाचन क्षेत्र में तीन दिन पहले डा. ए.के. जैन को जब वे अपने घर पटना जा रहे थे, अपहरण कर लिया गया। उनके परिवार के लोगों की क्या हालत है, यह महसूस करने की चीज है। मैं उसका वर्णन नहीं कर सकती हूँ। इसी प्रकार सिवान जिले में भारतीय जनता पार्टी के अध्यक्ष के लड़के की हत्या कर दी गई। आखिर कब तक हम इस आतंकवाद को सहते रहेंगे। अब वह समय चला गया है, जब महात्मा बुद्ध जैसे तपस्वी ने अंगुलीमाल डाकू को सिर्फ देखने से ही साधु बना दिया, महात्मा बना दिया। अंगुलीमाल डाकू के नाम से ही लोग थर-थर कांपते थे। जब महात्मा बुद्ध उस रास्ते से गुजर रहे थे, तो वहां लोगों ने मना किया कि आप वहां से मत जाइए। उन्होंने कहा कि मुझे एक बार तो जाने दीजिए। वे उस रास्ते से गए और अंगुलीमाल डाकू रास्ते में मिला। डाकू ने देखा कि यह साधु बिना डरे हुए चला जा रहा है। वह उनके पास गया और रुकने के लिए कहा। महात्मा बुद्ध ने कहा कि मैं तो रुक गया, लेकिन तुम कब रुकोगे और यह जो तुम पाप कर रहे हो, लूट और हत्या कर रहे हो, तुम्हारे पाप में कौन भागीदार बनेगा? उन्होंने कहा - तुम अपनी पत्नी, मां-बाप और बच्चे से पूछकर आओ कि वे क्या तुम्हारे इस पाप में भागीदार बनेंगे या नहीं? अंगुलीमाल डाकू ने कहा - तुम भाग न जाओ, इसलिए मैं तुम्हें इस पेड़ के साथ बांध देता हूँ। घर जाकर उसने अपने मां-बाप, पत्नी और बच्चों से पूछा कि क्या तुम इस पाप के भागीदार बनोगे, तो सब ने मना कर दिया। इसके बाद वह वापिस आकर महात्मा बुद्ध के चरणों में गिर गया और वह साधु हो गया। लेकिन वैसा समय अब नहीं है। आज तो ओसामा बिन लादेन को पकड़ने के लिए न जाने कितने हथियारों का उपयोग किया गया, लेकिन आज तक भी वह नहीं पकड़ा गया। देश को सुरक्षा प्रदान करने और आतंकवाद रहित राष्ट्र के निर्माण में पोटो कानून के अग्रसर होने की आज जरूरत है। जैश मोहम्मद जैसे अन्य आतंकवादी संगठनों पर प्रतिबन्ध लगाने के लिए पोटो की आवश्यकता है। लोकतन्त्र की रक्षा के लिए, देश की अखण्डता के लिए पोटो की आवश्यकता है।

मैं एक बात और कहना चाहती हूँ। जब हिन्दुस्तान के सारे लोग बराबर हैं और सारे लोग कहते हैं कि हम हिन्दुस्तानी हैं, चाहे वे किसी भी कौम के हों, तो फिर यह आवाज कहां से उठती है कि वर्ग विशेष के लिए यह कानून बनाया जा रहा है, अल्पसंख्यकों के लिए यह कानून बनाया जा रहा है। यही डर साबित करता है कि उनकी भावना सही नहीं है कि हम सब हिन्दुस्तानी हैं। हम सभी के लिए यह कानून बराबर है। इसी डर की वजह से उन्होंने इस कानून का विरोध करने का काम किया है। मैं आपके माध्यम से सारे सदन से कहना चाहती हूँ कि देश की अखण्डता के लिए, देश के अस्तित्व के लिए और लोकतन्त्र की रक्षा के लिए पोटो जैसे

कानून का समर्थन करें और सर्व सम्मति के साथ इसको पास करें।

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SANTOSH KUMAR GANGWAR): Sir, as the House is sitting late today, dinner arrangement is made for the Members of Parliament, the staff members and the Press. Dinner will be ready after some time.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : ये पोटो कानून, पोटो को पोट्टा बनाने के लिए लाए हैं। ये ड्रेकोनियन, एंटी डेमोक्रेटिक, नो वकील, नो दलील, नो अपील वाला कानून है, इसलिए हम इस कानून के खिलाफ बोलने के लिए खड़े हुए हैं।

महोदय, कानून मंत्री जी ने दावा किया कि यह बड़ा सुविचारित कानून है, और राज्यों से लिखा-पढ़ी की, इसे संसद की किसी समिति में क्यों नहीं भेज गया? कंसलटेटिव कमेटी अथवा स्टैंडिंग कमेटी में क्लॉज़ वाइज़ विचार होता है, उससे सरकार क्यों भाग खड़ी हुई। टाडा कानून भी लाए थे, टाडा में राज्यसभा और लोकसभा में बहुत विचार हुआ था, तब लागू हुआ था। ये इसे आर्डिनेंस में लाए, पहले आर्डिनेंस लागू किया, क्योंकि इन्हें भय था कि यह कानून पास होने वाला नहीं है। इसलिए जो कानून पास होने वाला नहीं होता, उसे लोग जल्दी से लागू करने के लिए आर्डिनेंस लाते हैं। सदन में लागू करने से पहले ये आर्डिनेंस लाए, इन्होंने सदन की बहुत अवमानना की है।

महोदय, जो आतंकवादी घटना घटी, जिसकी सब लोगों ने निन्दी की। 11 सितम्बर को अमेरिका में और 13 दिसम्बर को पार्लियामेंट पर हमला हुआ, उसकी सब लोगों ने निन्दा की। इन दोनों आतंकवादी घटनाओं से इस सरकार ने लाभ उठाने का काम किया। 13 दिसम्बर वाली घटना से इन्हें दो फायदे हुए हैं। इन्हें एक तो बल मिला और ये इस कानून को ले आए। ऐसा लगता है कि इनका वातावरण बात कराने के अनुकूल हो गया है। दूसरा फायदा यह हुआ कि ये लोग जो कफन घोटाले में जाने वाले थे, उससे बच गए। 11 सितम्बर वाली घटना से भी इन्हें फायदा हुआ, क्योंकि दुनिया भर में विश्व जनमत आतंकवाद के खिलाफ तैयार हुआ। उसमें इनका मनोबल बढ़ा कि इसमें पोटो कानून लाएंगे तो हमें बड़ा अनुकूल मौका मिलेगा। इन्होंने चुनावी मुद्दा भी इसे बनाया। अमृतसर में इन्होंने राष्ट्रीय कार्यकारिणी में तय किया - चुनावी मुद्दा, लेकिन वह भी खारिज़ हो गया। वहां भी जनता ने इनका साथ नहीं दिया। पंजाब में भी इन्होंने ऐसे ही किया वहां से भी इनकी विदाई हो गई। फिर उत्तर प्रदेश में इन्होंने चुनावी मुद्दा बनाया कि बड़ा आतंकवाद के खिलाफ माहौल है, जनता पोटो-पोटो के नाम पर हमारे पक्ष में हो जाएगी, वहां से भी इन्हें खारिज़ किया। फिर भी इनकी अक्ल और बुद्धि काम नहीं कर रही है। ठेस लगने से बुद्धि बढ़ती है, इसका भी अनुभव ये सरकार प्राप्त नहीं कर रही है। टाडा कानून दो वॉ के लिए लागू हुआ था, उसे दस वॉ तक बढ़ाया गया। उसके बाद महसूस किया कि यह काला कानून है, इसे खत्म होना चाहिए, जब कि उस कानून को भी सरकार में, विभिन्न मंत्री पद को सुशोभित कर रहे हैं। श्री जार्ज फर्नांडीज़, श्री जसवंत सिंह, श्री यशवंत सिन्हा, ये सभी लोग इसके खिलाफ थे।

इन सभी लोगों ने उसकी खिलाफत की और अब उसे पास करने जा रहे हैं। सरकार मांग करती रही है, माननीय प्रधान मंत्री जी कहते रहे हैं कि मैं सर्व-सम्मति से चलूंगा और आतंकवाद के खिलाफ देश एकजुट है, लेकिन उस एकजुटता का राजनैतिक लाभ उठाने के लिए, क्षुद्र लाभ उठाने के लिए इसे सर्व-सम्मति से न लाकर इन्होंने जनमत को सही राह नहीं दिखाई है।

अमरीका ने बयान दिया कि जो आतंकवाद के खिलाफ हमारे साथ नहीं है वह आतंकवाद का पक्षधर है। इन्होंने भी अमरीका की तरह बयान दे दिया, ये भी दादागिरी करना चाहते हैं। इन्होंने भी कह दिया कि जो पोटो की खिलाफत करेगा या खिलाफत को बढ़ावा देगा, उसको भी पोटो में बंद किया जाएगा। पोटो के जो खिलाफ होंगे, वे आतंकवाद को बढ़ावा देने वाले मान लिये जाएंगे। जब लोक नायक जयप्रकाश नारायण जी का आंदोलन हुआ तो हमें मीसा में, डीआईआर में बंद किया गया था। इस तरह से सरकार विरोध की आवाज को बंद करना चाहती है और उसके दुरुपयोग के खिलाफ में हम खड़े हैं।

महोदय, पोटो कानून से आतंकवाद नहीं रुकेगा बल्कि सरकारी आतंकवाद बढ़ेगा। आतंकवाद तो है ही लेकिन अब सरकार का आतंक बढ़ेगा। जब संसद पर हमला हुआ तो पोटो आर्डिनेंस लागू था तो क्या आतंकवादी कार्रवाई रुकी? वह तो हमारे जवानों ने आत्म-रक्षा में गोली चलाई और आतंकवादियों को मार गिराया। पोटो में आतंकवादियों को मार गिराने का कौनसा क्लॉज़ है फिर भी इतने आतंकवादी मर गये। पोटो से कोई मतलब नहीं है। लेकिन सरकार अपनी अक्षमता को छिपाने के लिए कहती है कि कानून नहीं था, अब पोटो से कानून को पक्का कर दिया। तब भी क्या ये आतंकवादियों को खत्म कर सकेंगे? जब मुम्बई के पुलिस कमिश्नर ने बयान दिया कि संसद पर हमला हो सकता है तब भी इन्होंने कोई सावधानी नहीं बरती। ये तो अपनी अक्षमता को छिपाने के लिए पोटो कानून लाए हैं, इससे आतंकवाद खत्म होने वाला नहीं है। यह सही है कि इससे अपने विरोधियों को जब चाहेंगे तब पुलिस वाले फंसा सकेंगे। लोग कह रहे हैं कि पोटो का दुरुपयोग होगा। माननीय अरुण जेटली जी अपना बयान करके चले गये, एक अरुण शौरी जी हैं, इसकी पैरवी करके मंत्री बन गये, वोट लेकर आते तो मालूम पड़ता। उन्होंने बयान दिया कि बहुत सारे कानून हैं जिनका दुरुपयोग होता है तो पोटो का भी दुरुपयोग होगा। मतलब यह कि सरकार के मन में है कि इसका भी दुरुपयोग करेंगे, कराएंगे। क्या ऐसा बयान सरकार के मंत्री का होना चाहिए? बहुत सारे कानून हैं जिनका दुरुपयोग होता है। धारा 302 है, 307 है और सीआरपीसी है उसका दुरुपयोग होता है। इसलिए इसका भी दुरुपयोग होगा - यह तर्क दिया जा रहा है।

माननीय श्री अनादि साहू जी चले गये हैं, वे होम-डिपार्टमेंट में स्टैंडिंग कमेटी में हैं।

उनकी बुद्धि का प्रयोग होता, यदि इसे कमेटी में पहले सरकार भेजती, लेकिन सरकार अफरा-तफरी में थी। इनके सहयोगी दल भी इस कानून के खिलाफ थे। प्रधान मंत्री के साथ हुई बैठक में विपक्षी पार्टियां इसके खिलाफ बोलीं। इनके सहयोगी दल भी इसके खिलाफ थे लेकिन उनके कहने पर इसमें कुछ संशोधन किए गए। इससे वे लोग संतुट हो गए। आप आतंकवाद को इच्छा शक्ति होने से ही खत्म कर सकते हैं। जनमत का अनादर करते हुए सरकार इसे बहुमत के बल पर क्यों पास कराना चाहते हैं। आप बहुमत के बल पर इसे पास करा लेंगे लेकिन देश के लोगों पर इसका क्या असर पड़ेगा, क्या इस बारे में आपने सोचा है? आप कैसे आतंकवाद को खत्म करेंगे? इनके मन में आतंकवाद को खत्म करने की कोई इच्छा शक्ति नहीं है। इनका मन सरकारी आतंक बढ़ाने का और सरकारी आतंकवाद कायम रखने का है। यहां ब्रिटेन, अमेरिका और यूनानो का उदाहरण दिया गया। दुनिया भर में टैरिज्म के खिलाफ कानून है लेकिन वहां टैरिस्ट और टैरिज्म की ठीक से परिभाषा की गई है। टैरिस्ट एक्ट के क्लॉज़ तीन में सजा की बात है लेकिन उसे ठीक से परिभाषित नहीं किया गया है। टाडा के समय टैरिज्म की जो डैफिनेशन थी, उससे भी सख्त परिभाषा इसमें दी गई है। उसमें कहा गया है कि फलां आदमी को फलां सजा देकर बंद किया जाएगा।

सभापति महोदय, साहू जी पुलिस पदाधिकारी रहे हैं और काफी उच्च पद पर रहे हैं। पुलिस कॉन्फेशन के समय थर्ड डिग्री का प्रयोग करती है। इस तरह थर्ड डिग्री का प्रयोग करके कनफेशन में न्याय का कहां स्थान है? पोटो कानून में इन सब बातों को रखा गया है। आप कमेटी में थे। क्लॉजवाइज़ विचार करते और अपनी बुद्धि, अनुभव का प्रयोग करते तो अच्छा होता। हमने पोटो कानून में देखा कि उसमें कुछ संगठनों के नाम हैं लेकिन उसमें बजरंग दल और विश्व हिन्दू परिषद का नाम क्यों नहीं है? यदि आप ईमानदारी से आतंकवाद को रोकना चाहते हैं तो इन संगठनों का नाम इसमें शामिल करते। ऐसे संगठन खुले आम कहते हैं कि हम कानून नहीं मानेंगे, अपनी जान देंगे, जबर्दस्ती करेंगे, आत्महत्या करेंगे। इससे बड़ा आतंकवादी संगठन कोई नहीं हो सकता है? हमें इनकी नीयत पर संदेह है और यह इंसफ नहीं कर पाएंगे। यह इसके तहत अपने विरोधियों को फंसाने का काम करेंगे। जो ट्रेड यूनियन्स आन्दोलन करेंगी, उन्हें भी इसमें शामिल किया जाएगा।

1991 में हिमाचल प्रदेश में इनकी सरकार थी। उस समय हड़ताली सरकारी कर्मचारियों के खिलाफ इन्होंने टाडा कानून को लागू किया था। इन्हें इससे सावधान रहना चाहिए। मैं एक अंतिम सुझाव देकर अपनी बात समाप्त करूंगा। इनकी सरकार की आयु अब खत्म हो रही है। कहीं यह कानून आप लोगों के खिलाफ हमें प्रयोग न करना पड़े,, इसका आप ध्यान रखें। साम्प्रदायिकता से बढ़कर कोई बात नहीं है। साम्प्रदायिकता आतंकवाद से बड़ा शत्रु है। इसके चलते देश का बंटवारा हुआ, गांधी जी की हत्या की गई, देश में आग लगी, गुजरात जल उठा। साम्प्रदायिकता आतंकवाद से कम भयानक जहर नहीं है। इसलिए मैं कहना चाहता हूँ कि ऐसे संगठनों को उसमें शामिल क्यों नहीं किया जो देश भर में साम्प्रदायिकता फैला रहे हैं।

उनका सिर कुचलने की जरूरत है। सांप का सिर कुचलने से ही उसका खात्मा होगा। देश को साम्प्रदायिक ताकतों की साम्प्रदायिकता के जहर से बचाना चाहिये और उनकी फुफकार को कुचलने की जरूरत है लेकिन ये लोग फिर भी यह बिल ला रहे हैं। सरकार आतंकवाद को खत्म करने के लिये यह पोटो का बिल ला रही है, जिसका मेरी पार्टी विरोध करती है। मेरा विश्वास है कि आतंकवाद खत्म करने का विचार इनके मन में नहीं है। आप आतंकवाद के खिलाफ जरूर हैं लेकिन आम सहमति से न करके अपनी वोटों की राजनीति कर रहे हैं। सारा विपक्ष इस बिल के खिलाफ है। इसलिये मेरा भी इस बिल के प्रति विरोध है।

SHRI BHARTRUHARI MAHTAB (CUTTACK): Mr. Chairman, Sir, it has been rightly said that there is a need for a comprehensive law and it has three aspects to it. The first is to deal with terrorist activities, the second is to identify and declare terrorist organisations and the third is to strike at the roots of their financial base. These are the three aspects which this Bill basically goes into and I will deal with only these three aspects now. But the point which has been repeatedly mentioned is this. As per the Resolution adopted by the United Nations on the 28th September, 2001, all Member States are required to undertake comprehensive measures to deal with the problem of terrorism.

I would like to know from the hon. Home Minister one thing. When we are making examples from the United States, when the Government is referring to the Act of the United Kingdom pertaining to curbing of terrorist activities, I would like to know what Israel has done in this regard. In the whole world, Israel is one of the most affected State by terrorism. Of course, Israel is a different type of State. It is fighting against terrorism through its Armed Forces, through its enlightened citizen and through the support of the international community. Israel has a democratic set up. We would like to know what law has been enacted in Israel. I think that will help us to modulate our thought processes to come to a conclusion.

As we all know, we have two types of criminal jurisprudence in the world. The criminal jurisprudence which we have adopted is the British jurisprudence where until and unless a person is not convicted he is presumed to be not guilty. But we have adopted in certain provisions, because of the demand of the day and necessity of the society, the French jurisprudence where once somebody is accused, he has to prove that he is not guilty. That law has been enacted by this Parliament especially in the case of Anti-Dowry Act to protect the married women. In this case of terrorism also we are attempting a similar kind of enactment which is also essential for the country taking into consideration the large number of people who have laid down their lives, while maintaining law and order.

It is necessary for the nation for such an enactment. But at the same time, I would like to draw your attention to 'Disclosure of Information' regarding which a lot of clamour was expressed when the Bill of 2001 was placed before the House. The Press, especially the media, took umbrage upon itself. It is heartening to note that clause 3, sub-clause (8), has been deleted in this Bill. Yet at the same time, in clause 3, sub-clause (4), it has been mentioned:

"Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist, etc., etc."

Who will determine that the accused is in the know of things? Of course, there have been a number of incidents. It reminds me of a very grievous incident. There is a village, called Padampur, near Cuttack. Two persons were staying there in a rented house for more than two or three years. They had been renting out truck services. Suddenly, one day, the police from Uttar Pradesh arrived at the district Police Headquarters and took help of the local Police. The police personnel went and searched out that area. So, the people panicked and started asking as to what had happened and why were they inquiring about these persons. The version of the policemen from Uttar Pradesh was that those two persons had been shot dead at Lucknow. The locals did not know that they were terrorists. The U.P Police came to know from some documents that they were staying in that village. They were taking the shelter of some persons who had rented out the house. That is how the things came to the notice of the local administration and the local police. So, these people had been going around the country. No state is safe. But how could a person know that he is harbouring terrorists in his house if he rents out his house?

In Orissa, because of our economic system, a number of people move out of the State to work elsewhere. How would a person residing in Mumbai or Surat survive the police query and convince his landlord that he is not a terrorist or how a particular person taking his house on rent know that the person is a terrorist or not? He could be prosecuted. Too much power lies with the prosecuting agency to determine that that particular person is a terrorist. I think, this needs a bit of clarification.

My apprehension is there. I would like to draw the attention to another clause. Of course in Chapter 1, clause 1, sub-section (5), this has also been mentioned here as to who would be prosecuted by this law. Of course, it would

apply to: (a) citizens of India living outside India; (b) persons in the service of the Government, wherever they may be; and (c) persons on ships and aircraft, registered in India, wherever they may be.

But there is no provision relating to foreign nationals. I would like to remind the House about arms dropping case that is still going on. Some foreign nationals dropped arms and ammunition in certain places in West Bengal. One person miraculously escaped at the Mumbai Airport. Some other persons had been apprehended. The case is still going on. I do not know what is going to happen. Does this Bill take into cognisance these types of disruptive activities? And who is a foreign national.

Of course, under Section 49, sub-section 9, there has been a mention about foreign citizens and not Indian citizens. That has been mentioned. I think, it would be better if we mention this in the first clause relating to foreign nationals.

I would come to another aspect, especially my last point, relating to Section 30 where protection has been granted to witnesses. Here under Section 30, the identity of the witness can be kept a secret putting the accused at an disadvantage in effective cross-examination. I think, this needs to be deliberated upon. This needs to be discussed and I think, when the House takes up this issue or when the rules are framed, certain provisions should be made because whatever has been mentioned in all the sub-clauses, especially in the four sub-clauses, the jurisprudence which we have adopted, it clearly puts the accused at a disadvantage. The State is empowered with absolute authority. This is not good.

Our property was taken away, confiscated by the British during the Freedom Struggle. My family was also put behind the bars during emergency in 1975-77. A number of my friends were interned, put under Maintenance of Internal Security Act, under Defence of India rules. Today, I am a part of the NDA, yet I have apprehensions. Why DMK is apprehensive today? Why I am apprehensive? We are all enlightened law knowing people and we are all law abiding persons. But at times, when exigencies happen in the country, the State takes too much power into its hands. The society gives that power to the State for the betterment of the society itself. But there are a lot of instances where the State has impounded the very nature of the citizenship. It has not protected the life and property of citizens rather it has misused its authority.

I would only request the Government to make sufficient provisions in this Bill so that it is not misused. I am very much sure that under the able guidance and leadership of our hon. Home Minister, it is not going to be misused. But we have to ensure that it is not misused in future. At times when some other person is sitting there, there is every possibility that it will be misused as it was misused in the mid-70s.

SHRI AJOY CHAKRABORTY (BASIRHAT): Thank you Mr. Chairman Sir. Every peace loving and law abiding citizen is opposed to terrorism and want an end to it. It is one of the most heinous crimes against humanity. There are no two opinions about the necessity to eliminate terrorism, wherever it is and wherever it manifests itself.

Humanity, social justice and terrorism cannot go together. Sir, India has been the victim of terrorism for near-about two decades. About 60,000 precious lives of our brothers and sisters have been lost due to terrorist strikes. The earlier Government, that is the Congress Government had passed a law called TADA in order to curb terrorist violence. At that time it was told that TADA would be used only against terrorism and ordinary citizens would not suffer. But the reality is quite different. It turns out near-about 70,000 people were dragged into jail. The maximum number of people was from Gujarat. At that time, long arm of terrorism had not reached. Out of 70,000 people, a very few were produced in the court and still a few could be convicted. There were serious objections against TADA and it had to go.

20.36 hrs (Shri P.H. Pandian in the Chair)

Sir, suddenly on the 11th September, the terrorists struck right at the heart of the U.S. All this time, India was targeted by the terrorist act. Not only India but also the brothers and sisters of Cuba and Palestine were targeted by the terrorist act. My question is this. Has the 11th September started terrorism in the world and whether the 11th September is the first to start terrorism in the world? After the 11th September, the BJP-led Government felt to bring a powerful and draconian law. Afganistan war has provided a golden opportunity and atmosphere to bring this draconian law. The American President, Mr. Bush told: "Who are not with America, they are supporting terrorism." Like the American President, our strong Home Minister, Shri Advani, has launched a campaign in the BJP conclave at Amritsar and the BJP leaders told that they are starting under the leadership of Shri Advani that who are opposing POTO, they are having lack of patriotism. Has patriotism the monopoly of the BJP?

Sir, my well-founded apprehension is that POTO will be used against the political opponents. The political opponents and the members of the minority community will be preferred as special targets of POTO. When Parliament was attacked on the 13th December, at that time POTO was prevailing. What happened? I want to know whether the Government was able to prevent the terrorist attack in Parliament. In Gujarat riots ...(*Interruptions*)

MR. CHAIRMAN : Please conclude now.

SHRI AJOY CHAKRABORTY : Sir, I have just started my speech.

MR. CHAIRMAN : There are eight more Members to speak. I will give each Member three minutes.

SHRI AJOY CHAKRABORTY : I will complete my speech within two or three minutes.

MR. CHAIRMAN : Now, the time is 8.40 p.m.

SHRI AJOY CHAKRABORTY : Within five minutes, I will complete my speech.

MR. CHAIRMAN : You have taken more than five minutes. There are smaller parties also.

SHRI AJOY CHAKRABORTY : Sir, Gujarat is burning now. POTO is still prevailing. I would like to know whether the Government is able to prevent Gujarat tragedy. Even now burning is going on in Gujarat. This will be used against the political opponents.

My personal experience is this. In 1962 when I was a student of a college, we started a movement for the kerosene oil for the students who are appearing in the examination. I was detained. I was arrested under the Defence of India Rules (DIR). I was detained in the jail. I was not even released on parole at the time of BA final examination. This way I have the personal experience. I think this Government will use this POTO against the political opponents, the Leftist Parties, the farmers and the workers who have started a movement against the anti-people policy of the Government. The Government have no other alternative but to introduce POTO against those who are against the bad governance of this Government.

They have already started a movement. The workers of the closed factories and industries have already started a movement. The farmers have already started a movement throughout the country to remove their plight. This draconian law will be used against those people.

I have one another legal question. This is a substantive law.

MR. CHAIRMAN : You have started your speech at 8.34 p.m. Now, 10 minutes have passed.

SHRI AJOY CHAKRABORTY : My question to the hon. Home Minister and to the hon. Law Minister is this. If there is a conflict between the procedural law and the substantive law, whether substantive law will prevail or procedural law will prevail? Enormous power has been given to the police. The statement made before the police will get evidentiary value. You know, Sir, applying third degree methods, the police is extracting statements from the public. I would like to know whether this provision, statement before the Magistrate, will apply against the provisions of Section 164 of Cr.P.C. I would like to know whether this will wither away the provisions of Section 167 of Cr.P.C. This law goes against the provisions of Sections 164 & 167 of Cr.P.C.

So, according to law, this Bill is not tenable. Further, it will be used against the political opponents and the minority community people. So, in the interest of the greater welfare of the people, I strongly oppose this Bill.

श्रीमती कैलाशो देवी (कुरुक्षेत्र) : सभापति महोदय, आतंकवाद निरोधक अध्यादेश पर सदन में अपने विचार व्यक्त करने के लिए मुझे अनुमति प्रदान करने पर मैं आपको धन्यवाद देती हूँ। आज देश अंदरूनी और बाहरी आतंकवादी चुनौतियों से दो-चार हो रहा है। यह किसी से छुपा नहीं है कि किस प्रकार आतंकवाद का दानव दिन-प्रतिदिन अपने पांव फैलाता जा रहा है। बल्कि कुछ दिनों से तो आतंकवादी गतिविधियां इतना उग्र रूप धारण कर चुकी हैं कि किस प्रकार आतंकवादी सुनियोजित तरीके से अति आधुनिकतम तकनीकों के सहारे अपनी गतिविधियां करके हमारे देश की सुरक्षा व्यवस्था को धकिया कर हमारी सुरक्षा तंत्र पर हावी होते जा रहे हैं। लाल किले पर हमला और वायुयान अपहरण आतंकवादियों की सुदृढ़ स्थिति के परिचायक हैं। पड़ोसी देश पाकिस्तान के समर्थन से तो उनके हौसले इतने बुलंद हो चुके हैं कि ये लोग हमारी जम्मू-कश्मीर विधान सभा और हमारी लोकतंत्रीय व्यवस्था के गौरव की प्रतीक संसद पर हमला कर चुके हैं।

सभापति जी, माननीय प्रधान मंत्री जी ने यह घोणा की है कि देश की सुरक्षा व्यवस्था से और देश के आत्मसम्मान के लिए उग्रवाद से, आतंकवाद से किसी प्रकार का कोई समझौता नहीं किया जायेगा। यह भी समूचे सदन में जितने भी सांसद उपस्थित हैं, सभी इस बात से परिचित हैं कि मौजूदा दंडिक न्याय प्रक्रिया इस जघन्य आतंकवाद से निपटने के लिए बहुत नाकाफी हैं। इस जघन्य आतंकवाद को कुचलने के लिए इस किस्म के कुत्सित मनसूबे को नाकाम करने के लिए हमें पोटो 2002 के अध्यादेश को पारित करने की महति आवश्यकता है।

आज समूचा विश्व आतंकवाद के खिलाफ एकजुट हो चुका है। **Terrorism has become a global problem.** आज सर्वत्र यह अनुभव किया जा रहा है कि इस किस्म का कोई विशेष प्रभावशाली कानून बनाया जाए जिससे मानव अधिकारों का किसी प्रकार कोई हनन न हो और आतंकवाद के शत्रुओं से भी बखूबी निपटा जा सके।

11 सितम्बर के अमरीका पर हुए आतंकवादी हमले के बाद आतंकवाद को लेकर विश्व जनमत में भारी तब्दीलियां आई हैं और दुनिया के अनेक देश आज यह समझते हैं कि कुछ देश आतंकवाद को एक नई युद्ध की तकनीक के रूप में इस्तेमाल कर रहे हैं। भारत शुरू से ही कहता आ रहा है कि उसका पड़ोसी देश पाकिस्तान आतंकवाद को आधुनिक तकनीक के रूप में भारत से अनेक बार युद्ध में पराजित होने के बाद सन् 1971 से ही इस्तेमाल करता आ रहा है। आज के परिदृश्य में यह कहना कि पोटो कुत्सित, कुख्यात टाडा का ही एक दूसरा रूप है, बिल्कुल उचित नहीं है क्योंकि टाडा का उद्देश्य आतंकवाद को समाप्त करना था और पोटो का उद्देश्य आतंकवाद के खिलाफ लड़ना है। टाडा की विफलताओं से अनेक सबक सीखे गए हैं। इसलिए पोटो अस्तित्व में आया। हमें देश के हित में इसका विरोध नहीं करना चाहिए। इस दलील में कोई दम नहीं है कि कानून बना देने से आतंकवाद का खात्मा नहीं हो सकता। आप देखिए, हत्या करना एक दंडनीय अपराध है लेकिन

फिर भी हत्याएं हो रही हैं तो क्या इसका यह अर्थ लगा लिया जाए कि हत्यारे को सजा देने के लिए कोई कानून ही नहीं बनाया जाए। इसलिए मैं जोर देकर कहना चाहूंगी कि आज समय की मांग है कि हमें अपने देश की सुरक्षा व्यवस्था को सुदृढ़ करके, मजबूत करके देख की प्रगति के पथ पर आगे बढ़ाना है क्योंकि यदि हम स्वयं को महफूज़ ही महसूस नहीं करेंगे तो किसी प्रकार की प्रगति की कल्पना नहीं की जा सकती। आज हमें ऐसे हर कदम का समर्थन करना चाहिए जो देश के हित में हो।

आज मैं इस बात को भी जोर देकर कहना चाहूंगी कि हमको दलगत राजनीति से ऊपर उठ कर देश के हित में सोचना होगा और देश के हित में निर्णय लेने होंगे। हमें एकजुट होकर पोटो जैसे आतंकवाद निरोधक अध्यादेश को पास करवाने के लिए ज्यादा से ज्यादा तत्परता दिखानी होगी ताकि देश की एकता, अखंडता और सम्पूर्णता की हर कीमत पर रक्षा की जा सके।

श्री सनत कुमार मंडल (जयनगर) : सभापति महोदय, जो टाडा कानून को पोटो के रूप में सदन में लाया गया है, इसका मैं विरोध करता हूँ। मैं इसका विरोध इसलिए करता हूँ क्योंकि यह कानून लोकतंत्र की स्वतंत्रता के खिलाफ है और इसके पीछे राजनीतिक साथ भी है। कानून देश में सुशासन के लिए बनता है, सुरक्षा के लिए बनता है लेकिन पोटो कानून हमारे देश के लोगों के मन में शंका पैदा करता है और डेमोक्रेसी में देश की जो भूमिका होती है।

उसके मन में भी शंका पैदा हुई है और इसमें जो एमेंडमेंट किया गया, यह पोटो आर्डिनंस का एमेंडमेंट पर्याप्त नहीं है। इसलिए मेरी समझ में आता है कि पोटो कानून भविष्य में जो हमारा लोकतांत्रिक आन्दोलन होता है, उस आन्दोलन के खिलाफ यह कानून प्रयोग हो सकता है। इस कानून का दुरुपयोग होगा, जैसे टाडा का दुरुपयोग हुआ। हम लोग जानते हैं कि टाडा का कैसे दुरुपयोग किया गया, वैसे ही पोटो कानून का भी दुरुपयोग होगा। जो शंका हमारे देश की आम जनता की भावना में आई है, इसलिए मैं इसके विरोध में हूँ। मानवाधिकार कमीशन ने भी पोटो के खिलाफ अपनी राय दी है, इसलिए इस कानून को सरकार को नहीं लाना चाहिए, इसको विथड्रा करना चाहिए। इसलिए मैं इसका विरोध करता हूँ और सरकार से विनम्र शब्दों में कहना चाहता हूँ कि इस कानून को वापस ले।

श्री राजो सिंह (बेगूसराय) : यह कहा गया था कि नौ बजे जवाब होगा, नौ बज गये हैं, जवाब होगा कि नहीं? (व्यवधान)

श्री चन्द्रनाथ सिंह (मछलीशहर) : जवाब के लिए नौ बजे का एनाउंसमेंट किया गया था, उसका क्या हुआ? (व्यवधान)

चौधरी तालिब हुसैन (जम्मू) : माननीय सभापति महोदय, टैरिज्म और वायलेंस का कोई मजहब नहीं होता, कोई रिलीजन नहीं होता और न ही टैरिज्म का जुगुराफियाई हुदूद में मुकय्यद किया जा सकता है। उसको कन्फाईंड नहीं किया जा सकता। नोर्मल टाइम्स में स्टेट या मुल्क के इंस्टीट्यूशन के शहरी अपनी कुछ लिबर्टीज को खुद ही सरेण्डर कर देते हैं, लेकिन एनोर्मल टाइम में स्टेट को रिस्ट्रिंजेंट लाज् फ्रेंम करने पड़ते हैं। चुनांचे हमारे देश के सामने आज जो चुनौतियां हैं, चेलेंजेज हैं, उनका मुकाबला करने के लिए जो कानून आज इस हाउस में जेरे बहस आ रहा है, मैं समझता हूँ कि महज यह कानून सख्त बनाने से मसला हल नहीं होता, बल्कि उसके लिए कुछ और भी एकदामात करना निहायत ही जरूरी है। अगर मुल्क के सख्त कवानीन मुल्क के अमन और आशतों को तहाफुज देने में कामयाब होता तो आज तक जितने भी कानून बने, जो एण्टी स्मगलिंग लॉज थे या एण्टी एट्रासिटीज एगेन्स्ट वीमेन या वीकर सैक्शंस के लिए बने थे, मेरे ख्याल से वे जो कानून बने, उन्होंने इन चीजों को आज तक नहीं रोका। मैं माननीय गृह मंत्री से यह दरख्वास्त करना चाहता हूँ कि जहां हम सख्त कानून बनाते हैं, वहां हमें यह देखना होगा कि पास्ट में अगर हमारा यह तजुर्बा है कि जो हमारे सख्त से सख्तगीर कवानीन बने, अगर उन्होंने किसी मसले का, जिसके लिए वे कानून बने थे, उसका हल नहीं निकाला तो आइन्दा यह कानून किस तरीके से बाअसर हो सकेगा। मैं समझता हूँ कि आज हमारी रियासत जम्मू-कश्मीर जिस नाजुक दौर से गुजर रही है और हमारी नेशनल कांफ्रेंस जमात टैरिज्म के खिलाफ डॉ. फारुख अब्दुल्ला की कयादत में स्टैप्स, जो मैजर्स उठा रही है, वह किसी से पोशीदा नहीं है। हम समझते हैं कि उनके हाथ मजबूत करने की जरूरत है।

वहां जो भी मुल्क के मुफाद के इकदामात करने वाले लोग हैं, उनका ख्याल करने की जरूरत है। लेकिन साथ ही यह भी देखना होगा कि कहीं ऐसे जो हार्श लॉज् मुल्क के अंदर बनते हैं, जिन्होंने पास्ट में ज्यादा कामयाबी नहीं दिखाई, आइन्दा अगर उनका एब्यूस हो जाता है, किसी वजह से सही इस्तेमाल नहीं होता, मैं समझता हूँ कि मसले का हल नहीं होगा।

आज रियासते जम्मू-कश्मीर के जो फिगर्स बताए जा रहे हैं कि 60,000 से ज्यादा लोग आतंकवाद का वहां शिकार हो गए। इसी तरीके से सिक्योरिटी फोर्सज के लोग भी मुत्तासिर हुए हैं और शहीद हुए हैं। लेकिन इसके साथ यह देखना होगा कि यह तादाद घट रही है या नहीं? अगर इस सख्त कानून के बनाने से भी यह मसला हल नहीं होता, अगर यह फिगर कम नहीं होती, अगर यह सालाना रिव्यू करने के बाद देखेंगे कि रोजमर्रा जो वहां 20 से 30 लोग मरते हैं टैरिज्म के खिलाफ लड़ते हुए, टैरिज्म की नजर हो जाते हैं, अगर उनकी तादाद में कमी नहीं आती, तो हम समझेंगे कि इस कानून का फायदा नहीं होगा। मुझे यकीन है कि जिस मकसद के लिए यह कानून बनाया जा रहा है, उसमें अगर कामयाबी मिलती है तो यह बड़ी खुशकिस्मती की बात होगी। मैं गृह मंत्री जी को यह यकीन दिलाना चाहता हूँ कि हमारी पार्टी और रियासत जम्मू-कश्मीर की अवाम अमनो सलामती देखना चाहती है, ताफ्फुज देखना चाहती है, खुशगवार माहौल देखना चाहती है, जिसमें वह तामीर और तरक्की की मंजिलें तय कर सके। लिहाजा इसकी हिमायत में यह अर्ज कर रहा हूँ।

MR. CHAIRMAN : Shri Bir Singh Mahato.

Before that, I would say that we are going to finish it by 9 o'clock. There are eight hon. Members who want to speak. I want to know from the House whether you want this list to be completed or we should straightway ask the Minister to reply because it will take another 40 minutes if I allow the eight Members to speak. ... (Interruptions)

SOME HON. MEMBERS: Please give five minutes each. ... (Interruptions)

SHRI SOMNATH CHATTERJEE : You may give two minutes to each Member. ... (Interruptions)

SHRI BIR SINGH MAHATO (PURULIA): Sir, Let me speak. You have called my name. ... (Interruptions)

MR. CHAIRMAN: I will give two minutes each.... (Interruptions)

SHRI BIR SINGH MAHATO : Mr. Chairman, Sir, every law abiding citizen of India is opposing this Bill. The Government has brought this Bill through an ordinance and through the backdoor process. There is no reason, no case whatsoever for bypassing the Parliament through an Ordinance.

Sir, the Bill is against the national unity and integrity and it is also an assault on democracy. Sir, the basic problem of this Bill is that, I am sure, it will be misused and it will remain a permanent weapon of the Government. Sir, though the validity of this Bill has been reduced from five years to two years, we do have the experience of TADA which was enacted for two years and had been later on extended for ten years. So, our past experience has taught us that today's weapon against terrorism may be used against the law-abiding people of India.

21.00hrs.

Therefore, Sir, there is no need to enact a special law. A solution to combat terrorism remains in the existing laws. POTO is much wider than TADA. The safeguards are very limited and are not sufficient. The political reasons for bringing POTO are already evident. Our Home Minister has already said that those who oppose POTO are anti-nationals. Therefore, their political intentions are very clear. This is a Bill which will disturb the unity and integrity of the country. This is politically motivated and, therefore, on behalf of my Party, I oppose this Bill.

***SHRI A.K. MOORTHY (CHENGALPATTU):** Hon. Chairman Sir, I thank the Chair for the opportunity given to me to participate in this discussion on legislating POTO Bill with needed amendments considering the viewpoints of all parties in this august House. We welcome this Bill on behalf of our Pattali Makkal Katchi (PMK) ably guided by our respected leader Dr. S. Ramadoss.

Many hon. members of this House expressed their apprehensions about the possible misuse of the provisions of this Bill to settle scores with innocent citizens and people from the opposition. The Government has amended POTO while introducing this Bill incorporating necessary safeguards keenly observing and responding to the submissions made by hon. Members.

Provision to give information to the family members of those who are taken into custody, emphasis on avoiding cruel third-degree methods to obtain statements, provision to go in appeal before the special courts, ensuring the avoidance of arresting people just because they merely know the terrorists are some of the amendments that have been made to make POTO a comprehensive Bill and hence I urge upon the members of this House to shed their apprehensions and misgivings.

Terrorist-intrusion and the attack on our Parliament on December 13th and the attack on American Centre at Kolkata on January 22nd are nothing but an assault on our Indian democracy.

To safeguard our Nation's unity and integrity from being disrupted by the terrorists and to ensure peace in the country to make it a garden of peace maintaining law and order, an effective law for the 'Prevention Of Terrorism' is essential at this juncture. Hence our Pattali Makkal Katchi – PMK extends its whole-hearted support to this legislation that seeks to prevent terrorism from the land.

***English Translation of the speech originally delivered in Tamil.**

SHRI G.M. BANATWALLA (PONNANI): Mr. Chairman, Sir, I rise in total opposition to the Prevention of Terrorism Ordinance as also the Bill. The proposed law is draconian, fascist and undemocratic in nature. All the healthy principles of jurisprudence have been thrown to the winds and the due process of law has been mutilated. In short, the proposed law is nothing but a lawless law.

Mr. Chairman, Sir, I submit that the proposed law reflects a defeatist mentality of surrender to the terrorists.

The terrorists are out to destroy our democratic system of life based on rights and freedom. Democracies do not respond to terrorism by dismantling the very framework of rights and freedom which the terrorists want to destroy. Therefore, I say that the Bill represents a defeatist mentality of surrender to the terrorists.

Sir, the Bill is also nothing but a reflection of the perverse exploitation of the public anger against terrorism.

Mr. Chairman, Sir, we are all concerned with terrorism. But here we have allowed to roll the red carpet for corruption, harassment and arbitrary arrests. It would result in all kinds of harassment of the innocent people adding to the miseries of the citizens.

Sir, we are told of the foreign laws. It is better that we do not speak about those foreign laws. In the case of the Great Britain, the Prevention of Terrorism (Temporary Provision) Act over there is a result of emergency declared under article 15 of the European Convention where the European Convention acts as a State monitoring agency. This is not the situation here in our country. Our law does not measure up to the British law in this regard.

MR. CHAIRMAN : Please conclude now.

SHRI G.M. BANATWALLA : Sir, I have hardly begun my speech. Please listen to me.

MR. CHAIRMAN: The CPI, the RJD, the RSP, the JD(S), the AIFB, all these parties put together were allotted 14 minutes and you alone have already taken six minutes.

SHRI G.M. BANATWALLA : Sir, I would not take more than 14 minutes...(*Interruptions*)

MR. CHAIRMAN: Please conclude now.

SHRI G.M. BANATWALLA : Sir, the provision for detention under the UK law is hardly for 48 hours, which, with the approval of the Secretary of State, can be extended up to five days. But in our case, the period of detention without showing any charge and without any trial is 90 days and can be extended up to 180 days.

Sir, in the case of the United States of America, the guarantees of the due process of law, the presumption of innocence, the right of the dependent to open, speedy trial, the right of the individual to confront the witnesses are neither suspended nor circumscribed.

But look at also the quality of the machinery that we have here. A police commission report says that 60 per cent of the arrests are arbitrary arrests. Under TADA, the conviction rate was hardly 1.5 per cent. That means, 98 per cent of the cases could not stand up to judicial scrutiny.

Mr. Chairman, Sir, I would conclude by saying that terrorism breeds on human rights violation and is accentuated under a legal cover. We have sufficient laws to deal with terrorism. The need is for a political will and to rise above partisan considerations. I would like to point out to the Schedule. The Schedule has listed several organisations as illegal. To these organisations must be added the VHP and the Bajrang Dal. With these words, I oppose the Ordinance and also this Bill.

श्री सुकदेव पासवान (अररिया) : सभापति महोदय, सदन में हम आतंकवाद निवारण विधेयक पर चर्चा कर रहे हैं। देश को आंतरिक रक्षा के प्रबन्धों में चुनौतियों का सामना करना पड़ रहा है। आतंकवाद सम्पूर्ण विश्व में फैल चुका है। आतंकवाद के द्वारा ही अमेरिका में भी घटना घटी है।

21.10 hrs. (MR. Deputy Speaker in the Chair)

उसके बाद जम्मू-काश्मीर की विधानसभा पर घटना घटी। 13 दिसम्बर, 2001 को दुनिया का सबसे अच्छा, गौरवशाली और मजबूत लोकतंत्र लोकसभा पर हमला हुआ और सही मायनों में आतंकवाद निवारण विधेयक लाना बहुत ही महत्वपूर्ण और आवश्यक हो गया था। केन्द्र सरकार हो या राज्य सरकार को, जब तक कठोर कानून नहीं बनेगा तब तक सही मायनों में आतंकवाद का मुकाबला डट कर नहीं किया जा सकता।

उपाध्यक्ष महोदय, महाराष्ट्र में पोटो कानून है। ऐसा कोई कानून आज तक नहीं बनाया, जो किसी वर्ग या मज़हब की खिलाफत करता हो। सुप्रीम कोर्ट के एक वरिष्ठ वकील, के.के. सूद जी का विचार है कि पोटो कठोर होने के साथ-साथ मानवीय भी है, इसलिए यह ज्यादा कारगर साबित हो सकता है। स्वतंत्रता प्राप्ति के बाद 1950 में भी आतंकवाद निरोधक कानून बना था। यह अध्यादेश 1971 तक जारी रहा, उसके बाद 2 जुलाई, 1971 को मीसा (मेन्टेनेंस ऑफ इंटरनल सिक्योरिटी एक्ट) अस्तित्व में आया।

मीसा और डीआईआर आपातकाल के समय देश में लगा था, निश्चित रूप से हम लोग उसके भुक्तभोगी हैं। कांग्रेस को छोड़ कर जितने एनडीए के पार्टनर हैं - चाहे राष्ट्रीय जनता दल हो या समाजवादी दल हो, हम सभी लोग मीसा और डीआईआर के अंतर्गत काफी लम्बे अर्से तक जेल में रहे। इसलिए कांग्रेस के लोगों को आशंका है कि जिस तरह मीसा, डीआईआर और टाडा का दुरुपयोग हुआ, उसी तरह पोटो कानून का भी दुरुपयोग होगा।

उपाध्यक्ष महोदय, जिस सतर्कता के साथ पोटो लाया जा रहा है, हमारी मान्यता है कि पोटो कानून का दुरुपयोग निश्चित रूप से नहीं होगा। काश्मीर की सीमा पर 60 हजार से भी ज्यादा भारत के लोगों को आतंकवादियों का शिकार होना पड़ा। इसलिए हम कहना चाहेंगे कि अभी की जो स्थिति है उस स्थिति में निश्चित रूप से पोटो कानून देश में लगे और इस पर सदन के सभी माननीय सदस्यों को एकजुट होना चाहिए। श्री अटल बिहारी वाजपेयी ने सभी दल के, माननीय सदन के सभी नेताओं को भी आग्रह किया है कि निश्चित रूप से इस पर सोचें।

उपाध्यक्ष महोदय, अंत में मैं यह कहना चाहता हूँ कि केवल गलत इस्तेमाल के भय से करोड़ों देशवासियों का भविय आतंकवादियों के हाथों में नहीं साँपा जा सकता, इसलिए निश्चित रूप से पोटो कानून को पास करें। इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

SHRI PRAVIN RASHTRAPAL (PATAN): Mr. Deputy-Speaker, Sir, I am here to protest against POTO *in toto* because it is a Bill which is introduced not by a secular party, but by a party which is seeking to divide the people of the country on the lines of community and religion.

But when we use more and more preventive detention Acts, it means that the Government in power has no faith in the common law of the country. I want a specific answer from the hon. Home Minister. Is there any offence in this country which is not covered under IPC? Is it not true that IPC is successfully being implemented during the last 150 years? Is it not true that those who fought wars against the established Government during the foreign rule were also treated under IPC and no detention law was framed even by the foreign Government?

I oppose POTO because any preventive detention Act is anti-poor, anti-working class, anti-trade union and anti-minority. So, I protest against this. I also want a specific answer from the hon. Home Minister to what is stated in the last item at page no.3. It is stated that any person who is a member of a terrorist gang or a terrorist organisation which is involved in a terrorist act, will be punished with life imprisonment. Suppose there is a gang of 15 people and one young boy joined that gang. But after some time, he realises that the gang is doing something wrong and he is not participating in any terrorist act. But he was a member of that gang and so, the punishment under the Act is life imprisonment. I want to know, therefore, from the hon. Home Minister whether he is going to punish an innocent person who has not joined the group and not participated in any terrorist act. I want a specific answer from the hon. Home Minister.

I also want to draw the attention of the hon. Home Minister to the list of 25 organisations which is already prepared. I am of the considered opinion that there are certain organisations which are socio-political organisations with whose ideology, you may not agree. It is the Leftist ideology. They are fighting for certain rights. No doubt, there are certain known terrorist organisations in the list of 25 organisations. But all those organisations belong to the minority community. All those organisations belong to the Left movement in this country. I do not agree with the BJP; I do not agree with VHP and I do not agree with RSS. But they are at a distance. If they can remain in existence with an ideology which is known all over the country and all over the world and the people in the organisations are responsible for what happened in Gujarat recently and what happened in other parts of the country during the last weeks, why not other organisations? ...*(Interruptions)* The Ordinance was in existence at that time. â€¦*(Interruptions)*

श्री प्रकाश परांजपे (ठाणे) : मुम्बई में बम विस्फोट की घटना में जो लोग मारे गये, उसके बारे में बात करो। क्या वे इनोसेंट नहीं थे? What were you doing at that time?

SHRI PRAVIN RASHTRAPAL : I want to know from the hon. Home Minister, how he can justify giving more powers to police instead of judiciary? According to the established system in this country, there is a Government, there is an Executive and there is a Judiciary. The job of the police is to arrest a person and produce him before the court. Whether he should be sent to jail, or whether he should be sent to remand, is always decided by the court and not by the police officer.

So, I strongly protest against all these provisions. We have had the experience of TADA. We have had PASA. I am very sorry that we have not learnt anything out of that experience. Let me inform you that the situation in Punjab was improved not because of TADA or PASA but only when the people of Punjab decided that they do not want terrorism in Punjab. With these few words I conclude my speech and I am sure the hon. Home Minister will reply to the specific questions being asked by me.

SHRI SOMNATH CHATTERJEE : Mr. Deputy, Speaker, Sir, on behalf of our Party, comrade Hanan Mollah has already spoken. I am not going into the merits. I only want to know one factual information from the hon. Home Minister.

Sir, from 24th of October last year POTO has been in existence. So, it is an operative law and nearly four to five months have elapsed. We are being told that it has two aspects; one is preventive and the other is easy prosecution, that is the punishment procedure. I believe the House and the country are entitled to know that during these five months how many incidents have been prevented because of application of the law to prevent the occurrence of terrorists act and how many cases of prosecutions have taken place or even initiated. I would like to know whether within these five months any special court has been constituted or not because trial has to be before the special court. These are very essential information because an impression is being created throughout the country that because of the alleged non-cooperation by the Opposition Parties such a wonderful law cannot be implemented or brought into the Statute Book. For six weeks, from 25th of February the law will be in existence if it is not passed today. For all these months it has been in full operation, not with changes that have been proposed to satisfy you. You think that your ego is satisfied because of the proposed changes. These changes have not yet come. In the new Ordinance it may come. We are happy that your ego is satisfied. ...*(Interruptions)*

We would, therefore, like to know from the hon. Home Minister how many foreign terrorists have been apprehended or proceeded with. How many internal terrorists have been apprehended and proceeded with and successfully prosecuted so that the justification for that law in fact can be established?

श्री हरीभाऊ शंकर महाले (मालेगांव) : उपाध्यक्ष महोदय, मैं जनादेश मानने वाला आदमी हूँ। जब देवेगौड़ा जी की सरकार थी, उस वक्त यह कहते थे 13 दलों

की खिचड़ी सरकार है लेकिन अब 23 दलों की खिचड़ी सरकार है। फिर भी मैं इनका आदर करता हूँ। सत्ता पक्ष में रहते इनके कंधों पर बहुत बड़ी जिम्मेदारी है। आतंकवाद रोकने की जवाबदेही है। मैं इस संबंध में एक उदाहरण देना चाहता हूँ। प्रभु राम जब अयोध्या आए तो सीता मां बहुत खुश थी। सीता मां ने बजरंग बली को एक कीमती हार दिया लेकिन उन्होंने हार का एक-एक दाना निकाल कर देखा कि इसमें प्रभु राम है या नहीं? लेकिन उन्हें राम दिखायी नहीं दिए। इस पर उन्होंने वह हार फेंक दिया। ऐसा ही पोटो कानून है। पूँछ न आबरू की रक्षा करती है और न ही मक्खी उड़ती है। ऐसी ही स्थिति पोटो कानून की है। अब शेर के बीच रहने वाली भेड़ का डबल शिकार होने वाला है। इतना ही कह कर मैं अपनी बात समाप्त करता हूँ।

श्री रामदास आठवले (पंढरपुर) : उपाध्यक्ष महोदय, श्री अटल बिहारी वाजपेयी जी की सरकार श्री आडवाणी के द्वारा देश में आतंकवाद को खत्म करने के लिये पोटो कानून लाने की कोशिश कर रही है। आतंकवाद को खत्म करने के लिये हमारा कोई विरोध नहीं क्योंकि हमने भी इस देश में आतंकवाद को खत्म करने के लिये जन्म लिया है। खाली कानून लाने का क्या मतलब है? जब ये लोग मीसा में बंद थे, तब ये मांग कर रहे थे कि इन्हें बाहर आना है क्योंकि मीसा कानून भी ऐसा ही था। इसलिये मेरा आडवाणी जी से कहना है कि आडवाणी जी लाकर पोटो न काम करो खोटो। हमें डर है कि सरकार के खिलाफ विरोधी पार्टियाँ कोई शब्द निकालेंगी तो पता नहीं, कब हम पर पोटो लगायेगी, हमें अंदर कर देगी। यहां कोई अपील नहीं है, कानून नहीं। अगर कोई आतंकवादी है तो उसे अरेस्ट करना चाहिये और उसे सजा मिलनी चाहिये। अगर कोई आदमी किसी का नाम ले सकता है कि यह मेरे साथ था, अगर वह बोलेगा कि नहीं था, फिर भी बोला जायेगा कि मेरे साथ था। पालिटिकल लोगों पर अन्याय किया जायेगा।

उपाध्यक्ष जी, मेरा कहना है कि इस आतंकवाद को खत्म करने के लिये इस जंग को मज़बूत किये जाने की आवश्यकता है। वाजपेयी साहब, आतंकवाद को खत्म करने के लिये जो जंग आपने छेड़ी है, उसमें हम आपके साथ हैं मगर जब हम पाकिस्तान के संबंध में बोलते हैं तो कहते हैं कि तुम हमारे साथ आओ, अगर बजरंग दल के खिलाफ बोलेगा तो कहते हैं कि जाओ। मेरे इतना कहना है कि अगर घर का कोई आदमी आतंकवादी बनता है तो उसे सबक सिखाने की आवश्यकता है और अगर मेरे घर में इस तरह का कोई आदमी पैदा होता है तो उसे ठीक करना चाहिये, उसे समझाना चाहिये। हम नहीं कहते कि उनको एकदम से अंदर करो। अंदर कर भी देंगे तो कुछ होने वाला नहीं। उन्हें बताओं कि देश में कानून का राज आया है। बाबर राज आया होगा, मस्जिद बनी होगी। जब श्री राम का राज था, मंदिर बना होगा, बौद्ध राज होगा, बौद्ध विहार बना होगा परन्तु अभी तो लोकतंत्र का राज है। अभी भारत में संविधान का राज है, सैकुलरिज्म का राज है। इसमें हिन्दू, मुसलमान और बौद्ध का राज है।

उपाध्यक्ष जी, जब वाजपेयी जी प्रधानमंत्री होंगे, उनका राज होगा लेकिन यहां हमारा राज भी है। सत्ता इनके हाथ में है। लोकतंत्र में कभी-कभी सत्ता आपके हाथ में होगी और कभी हमारे हाथ में भी होगी।

अटल जी, अगर हर रोज देश में होता रहेगा दंगा,

किसी दिन हम कर देंगे इस सरकार को नंगा।

यह सत्ता देश में शान्ति पैदा करने के लिये आयी है। आतंकवाद और गुंडागर्दी को खत्म करने के लिये सत्ता आई है। हम सब मिलकर डाल देंगे एन.डी.ए. पर पंगा। जब हमारी सरकारी आयेगी तो हम खत्म करेंगे पूरा दंगा।

उपाध्यक्ष महोदय, हमारी पार्टी पोटो कानून का विरोध करती है और अच्छा काम करने के लिये आपका साथ जरूर देंगे।

अंत में मेरा इतना ही कहना है -

देश में फैलने वाले आतंकवाद की हम कर रहे हैं निंदा,

पार्लियामेंट, जम्मू-कश्मीर और उड़ीसा की घटनाओं से देश हो गया है शर्मिन्दा,

इसी तरह वी.एच.पी. और बजरंग दल को बंद करना होगा गुंडागर्दी का धंदा,

और पाकिस्तान पर एक दिन डालना होगा युद्ध का फंदा।

अंत में, हम और हमारी पार्टी इस पोटो कानून का विरोध करती है।

गृह मंत्री (श्री लाल कृष्ण आडवाणी) : मान्यवर उपाध्यक्ष जी, जितने भी माननीय सदस्य आज की बहस में बोले हैं, मैं सबके प्रति आभार प्रकट करता हूँ। पोटो के विषय में आज की चर्चा में कम से कम गर्मी कम थी, प्रायः प्रकाश अधिक था। हो सकता है इसलिए भी हो कि काफी समय से इस मामले में जो सार्वजनिक बहस चल रही है, चाहे वह इसके पक्ष में हो या विपक्ष में हो, उसमें गर्मी निकल गई और इसीलिए चर्चा बहुत अच्छी हुई। चर्चा और अच्छी होती अगर उसमें से कुछ सार्थक सुझाव निकलते। जब जयपाल रेड्डी जी ने आरम्भ किया था तब मुझे लगा कि वह रिव्यू के बारे में शायद कोई संशोधन प्रस्तुत करेंगे कि जो रिव्यू कमेटी हो, उसमें आपने जो व्यवस्था की है कि सिटिंग जज भी हो सकता है, रिटायर्ड जज भी हो सकता है, उसके बारे में शायद संशोधन करके कहें कि केवल सिटिंग जज ही होगा। लेकिन जब बाद में उन्होंने कंक्लूड किया, तब लगा कि इस प्रकार के सुझाव देने के मूड में पार्टी अभी भी नहीं है और उनका जो स्टैंड है कि हम पूरी तरह से इसका विरोध करते हैं, वैसा ही स्टैंड है। हो सकता है अनुभव के आधार पर हम कुछ प्राप्त करें।

वैसे मैं मानता हूँ कि जो आरम्भिक वक्ता थे, उसमें से ही इसके दोनों पक्ष सामने आ गये थे। आखिर जितना विवाद रहा है, जितनी सार्वजनिक बहस रही है, वह टाडा की तुलना में यह विधेयक कैसा है, टाडा में जो कमियाँ थी, वे भी इसमें हैं। क्योंकि किसी ने कहा है It is a clone of TADA. जयपाल जी ने नहीं कहा, आपने क्लोन ऑफ टाडा करके कहा कि उसी को फिर से ले आये। मैं मानता हूँ कि टाडा के अनुभव के बाद हम कुछ सीखे हैं और केवल अनुभव के बाद नहीं, लेकिन टाडा के बारे में जब भी अदालतों में चुनौती दी गई तो सुप्रीम कोर्ट ने उसको एक प्रकार से तटस्थ होकर, निष्पक्ष होकर, उसका विश्लेषण किया और विश्लेषण करके उन्होंने सुझाव दिये। खासकर करतार सिंह का जो 1994 का केस है, उसमें उन्होंने स्पेसिफिक सुझाव दिये और 1,2,3,4,5 और 6 पूरे आधा दर्जन सुझाव दिये कि इसके आधार पर अगर बदला जाए तो यह टाडा भी ठीक है। वैसे तो उस टाडा को बाई मैजोरिटी उन्होंने अपहोल्ड किया। उसके जो-जो प्रोविजन्स थे, सबको उन्होंने अपहोल्ड किया। लेकिन उसमें उन्होंने जो सुझाव दिये, हमें लगा कि जिस समय हम आतंकवाद के खिलाफ एक नये विधेयक का विचार कर रहे हैं तो उपयुक्त होगा कि सुप्रीम कोर्ट ने जो सुझाव दिये थे, उन्हें उसमें समाविष्ट कर दिया जाए। आखिर उसमें जो प्रोविजन्स थे और मेरे साथी, मेरे सहयोगी श्री अरुण जेटली, विधि मंत्री ने बहुत उत्कृष्ट ढंग से सब प्रावधानों का उल्लेख करके विस्तार से समझाने की कोशिश की कि सरकार का और बहुमत का इसके बारे में चिन्तन क्या है। वह चाहे कन्सैशंस के बारे में हो, चाहे बेल के बारे में हो। बेल के बारे में श्री सोमनाथ चटर्जी ने आखिर में एक सवाल पूछा।

यह पोटो अधिनियम तो बनेगा जब हम पास करेंगे, दूसरा सदन पास करेगा, तब वह ऐक्ट बनेगा, इस समय तो ऑर्डिनेन्स है और अक्टूबर से ऑर्डिनेन्स है। माननीय

सदस्य ने सही कहा कि पांच-छः महीने हो गए हैं उसको और इन पांच-छः महीनों में जम्मू और कश्मीर में 86 लोगों के खिलाफ पोटो की कार्रवाई की गई है लेकिन जिनमें से 10 लोगों को बेल प्राप्त हुई है। मैं इसका उल्लेख इसलिए कर रहा हूँ कि टाडा में बेल नहीं मिलती थी और जिस समय जयपाल रेड्डी जी बोल रहे थे, वह बोल रहे थे कि इसमें भी आपने प्रावधान किया है कि साल भर तक नहीं मिलेगी, ऐसा प्रावधान नहीं है। साल भर के बाद तो जो प्रोविजन्स इसमें लगाए हैं, जिसके आधार पर भी कोर्ट बेल दे सकती है इन प्रावधानों के बावजूद। साल भर बाद ये प्रावधान नहीं होंगे और जो सामान्य कानून होगा, वह लागू होगा। ऐसा नहीं है कि साल भर तक बेल नहीं मिलेगी। इसलिए मैंने जिक्र किया कि इन छः महीनों में ही जम्मू कश्मीर में जहां 86 लोग गिरफ्तार हुए पोटो के अधीन, उनमें से 10 लोगों को बेल प्राप्त हुई है।

श्री सोमनाथ चटर्जी : टोटल कितना हुआ?

श्री लाल कृण आडवाणी : कुल मिलाकर जो जानकारी मुझे स्टेट से मिली है, उसके अनुसार मैं बता सकता हूँ कि 145 लोग गिरफ्तार हुए देश भर में।

श्री सोमनाथ चटर्जी : गुजरात में हुए हैं?

श्री लाल कृण आडवाणी : गुजरात में हुए हैं, जम्मू-कश्मीर में हुए हैं, दिल्ली में हुए हैं, ये प्रमुख हैं। विदेशियों के बारे में आपने पूछा तो मेरी जानकारी में इसमें 5 पाकिस्तानी हैं।

श्री सोमनाथ चटर्जी : रैस्ट इंडियन्स हैं?

श्री लाल कृण आडवाणी : जी हाँ, रैस्ट इंडियन्स हैं। कनफैशन्स के बारे में, बेल के बारे में, प्रिज़मपशन ऑफ गिल्ट के बारे में तीन प्रावधान टाडा में भी थे जिन प्रावधानों को हमने सुप्रीम कोर्ट की सलाह के अनुसार और जो हमें इनपुट्स मिले, उसके अनुसार संशोधित करके पोटो में लाया है। फिर मीडिया के बारे में जो आपत्तियाँ थीं, मन में आशंकाएँ थीं, उनको दूर करने के लिए मीडिया का जो पहले प्रोविजन था जिसमें मीडिया शब्द नहीं था, प्रैस शब्द नहीं था लेकिन उनके मन में आशंका थी कि इसका उपयोग हमारे खिलाफ किया जा सकता है, उसको पूरी तरह से ड्रॉप किया है। एक एडीशनल प्रावधान जिसका जिक्र भी विधि मंत्री ने विस्तार से किया, जिसका अनुभव हमको महाराष्ट्र से प्राप्त हुआ कि एडमिनिस्ट्रेशन एक्टिविटी, और एक्टिविटी के नॉर्मल लॉ से हटकर इन्टरसैप्ट्स को भी एडमिनिस्ट्रेशन एक्टिविटी के रूप में स्वीकार किया जाए यह प्रावधान हमने जोड़ा है। मैं मानता हूँ कि इन सब प्रावधानों के बारे में जो रिज़र्वेशन्स हैं, उनसे भी सबसे बड़ा रिज़र्वेशन रहा है संभावित दुरुपयोग के बारे में, कि इस प्रकार का कोई असाधारण कानून बनेगा तो आप एक प्रकार से पुलिस और एक्जीक्यूटिव अथॉरिटीज़ को इतने अधिकार देंगे जिसके कारण उसका दुरुपयोग होगा। पोटो के प्रॉमलोट होने के छः महीने बाद, क्योंकि ऑर्डिनेन्स है, कानून नहीं बना है, कम से कम आज तक कह सकता हूँ कि 146 केसेज़ हैं जिनके खिलाफ पोटो का उपयोग किया गया है तो आज तक भी किसी एक ने शिकायत नहीं की है कि अमुक स्थानों पर पोटो का दुरुपयोग किया गया है।

SHRI SOMNATH CHATTERJEE : Please give the break up.

SHRI L.K. ADVANI: I will be able to give it later. Just now you have asked for it. I have asked for the information. Earlier, I had asked only about the bail applications and I know that. I will find it. It would not be difficult.

श्री बसुदेव आचार्य : कितनी घटनाएँ घटीं वह भी बताइए।

श्री लाल कृण आडवाणी : मैं यह ज़रूर कहना चाहूँगा कि अनेक सदस्यों ने हमें अपना अनुभव सुनाया और कहा कि आप तो भुक्तभोगी हैं, आप तो मीसा जैसे कानून में जेल में रहे, बहुत सारे कानून आए, किसी ने डॉ. श्यामाप्रसाद मुखर्जी का प्रिवेन्टिव डिटेन्शन एक्ट वाले भाग का जिक्र किया और मैं मानता हूँ कि that was one of the best speeches that I have heard. मैं उस समय प्रैस गैलरी में हुआ करता था। उस समय के भाषणों में probably, it was one of the outstanding speeches. लेकिन उसमें राष्ट्रपाल जी ने भी कहा, और भी कुछ सदस्यों ने कहा और एक गलतफहमी है कि यह जो पोटो है, वह कोई प्रिवेन्टिव डिटेन्शन का कानून है। नहीं है। This is not preventive detention law, this is a substantial law. और प्रिवेन्टिव डिटेन्शन के जो कानून हैं, वह अलग हैं। वह एन.एस.ए. है। किसी ने सुझाव दिया कि आप इसका उपयोग न करके एन.एस.ए. का उपयोग क्यों नहीं करते?

महोदय, आज सुबह-सुबह विधि मंत्री जी ने इसका जवाब दिया था। मैं इस बात का जिक्र इसलिए कर रहा हूँ कि शायद हिन्दुस्तान के इन 55 सालों के लोक तंत्र के इतिहास में जिस सांविधानिक प्रावधान का सबसे बड़ा दुरुपयोग हुआ वह आर्टिकल 352 था, जिसके दुरुपयोग के कारण हम लोग, चन्द्र शेखर जी जैसे लोग, जो देश के प्रधान मंत्री रहे, ये सब लोग जेलों में थे। सोमनाथ जी जेल में नहीं थे, लेकिन आपके कुछ साथी थे।

श्री सोमनाथ चटर्जी : ज्योतिर्मय बसु जेल में थे।

श्री लाल कृण आडवाणी : मैं जानता हूँ। मैं इस बात का जिक्र इसलिए कर रहा हूँ कि जब हम 19 महीने की जेल काट कर बाहर निकले और चुनाव हुए, तो जो सरकार बनी वह कांग्रेस की नहीं बनी, जनता पार्टी की सरकार बनी और मोरारजी देसाई प्रधान मंत्री बने तथा उनके नेतृत्व में मंत्रिमंडल के सामने जब यह बात आई कि संविधान के आर्टिकल 352 जैसे प्रावधान को जिसका इतना बड़ा दुरुपयोग किया गया उसे रचना चाहिए या नहीं, we considered it और सीरियस कंसीडरेशन के बाद हम इस नतीजे पर पहुंचे कि हमारे खिलाफ इसका दुरुपयोग हुआ, तो इसका मतलब यह नहीं है कि 352 जैसे प्रावधान की जरूरत नहीं है। आखिर धारा 352 का हर वार में उपयोग किया गया। 1965 की वार में, 1971 की वार में इमर्जेंसी लगाई गई। That particular provision had been invoked and an Emergency was promulgated in the country. It was only in 1975 that this Emergency was promulgated on the basis of internal disturbance, not external aggression. Therefore, we all were punished because of that. But because we were punished, we did not seek its repeal. We did not....(Interruptions)

SHRI SOMNATH CHATTERJEE : You changed it.

SHRI L.K. ADVANI: We changed it. टाडा को चेंज किया है जिससे उसका दुरुपयोग न हो सके। इस दृष्टि से किया है और मैंने इसका उदाहरण दिया बेल के बारे में भी जो आज कोर्ट ने निर्णय दिया है वह इसलिए दे सका कि इसमें ऐसा प्रावधान है, लेकिन महाराष्ट्र के लॉ में आपको बेल नहीं मिल सकती है।

महोदय, यहां पर टाडा की चर्चा हुई, गुजरात का भी जिक्र आया। मुझे याद है, मेरी पार्टी की ओर से भारतीय जनसंघ की ओर से टाडा के खिलाफ अहमदाबाद में कान्फ्रेंस हुई, उस समय फार्मर्स एजीटेशन चल रहा था, किसानों का आन्दोलन चल रहा था, उसे रोकने के लिए इसका दुरुपयोग किया गया, हमने उसका विरोध किया था। हमने उसके दुरुपयोग का विरोध किया था। इसी प्रकार यदि आर्टिकल 352 का, टाडा का और अगर पोटो का दुरुपयोग होगा या दुरुपयोग करेंगे, तो स्वाभाविक रूप से उसका विरोध होगा, लेकिन आज की परिस्थिति में इस बात को स्वीकार करना पड़ेगा कि इसकी जरूरत है। ऐसा कौन सा कानून है, अगर आप किसी को असाधारण कानून देंगे, तो उसका दुरुपयोग नहीं हो सकता, लेकिन क्या उसके कारण वह स्टैंड लें जो जयपाल रेड्डी जी ने लिया। I would not trust even

Mahatma Gandhi with a law of this kind. यह बहुत अच्छा लगता है रैटोरिक के नाते, जिन कानूनों को आज सबेरे हमारे अरुण जेटली ने सुनाया कि टाडा ही नहीं अनेक कानून जैसे नारकोटिक्स, ड्रग्स, ऐसेंशियल कमोडिटीज, ब्लैकमार्कीटियर्स के खिलाफ नियमों में ये प्रावधान हैं जिनके आधार पर आप कहते हैं ड्रैकॉनियन पावर्स पुलिस को मिल गईं, वे इनके आधार पर यह कर देंगे, वह कर देंगे। मेरा नम्र निवेदन है कि आप पुलिस वालों को भी इतना डिस्ट्रेस मत करिए। उनसे जब भी मेरी बात हुई है, उन्होंने पहले तो यह कहा कि प्रमुख रूप से हमारी इच्छा यह है कि आप अगर उग्रवाद के खिलाफ लड़ना चाहते हैं, तो कम से कम हमारे हाथ में हथियार तो दीजिए और जो अपना भाग कनक्लूड करते हुए कानून मंत्री ने कहा कि कोई भी हो लोकतंत्र में, उसके स्वाभाविक रूप का ही मान वाधिकारों के बारे में चिन्तन होना चाहिए और कानून बनाते समय उनका चिन्तन करना चाहिए।

लेकिन इस मामले में आतंकवाद ऐसी भीषण समस्या है कि हम समझकर चलें। अगर हम अपने पुलिस के लोगों को, अपनी सिक्योरिटी फोर्स को कुछ अधिकार इतने नहीं देंगे तो मानवाधिकार के हनन की संभावना, उसका खतरा और ज्यादा बढ़ जायेगा क्योंकि हम उनसे यह तो कहते हैं कि आतंकवाद को रोको। आतंकवाद को रोकने का हम आग्रह करें और दूसरी तरफ उनको योग्य हथियार न दें, तो मैं समझता हूँ कि इस बात को ध्यान में रखकर इस कानून को जिसमें सारे के सारे सेफगार्ड इनकारपेट किये गये हैं, चाहे हमको सुप्रीम कोर्ट ने सुझाए हैं या आप में से किसी ने सुझाये हैं। उसके बाद इसमें वास्तव में कोई विवाद नहीं होना चाहिए और सर्वसम्मति से सारा सदन इसे पास कराये, यही मैं अनुरोध कर रहा हूँ।

SHRI AJOY CHAKRABORTY : Mr. Deputy-Speaker, Sir, I have already stated that this draconian law should go *in toto* because our well-founded apprehension is that this law would be applied only again the political opponents and members of the minority community. I have also stated earlier that this is a substantive law and if there is any conflict between a substantive law and a procedural law, the procedural law will prevail. In this case, enormous powers have been given to the police. Any statement made before the police has got evidentiary value. It goes against Section 164 of the Criminal Procedure Code and not only that, it also goes against Section 167 of the Criminal Procedure Code. This law is bad in law, this is vexatious and not tenable according to laws. Therefore, I totally oppose this draconian law. I am not withdrawing the Resolution and I am pressing for the vote.

MR. DEPUTY-SPEAKER: I shall now put the Resolution moved by Shri Ajoy Chakraborty to the vote of the House.

The question is:

"That this House disapproves of the Prevention of Terrorism (Second) Ordinance, 2001 (No. 12 of 2001) promulgated by the President on 30 December, 2001."

The motion was negatived.

MR. DEPUTY-SPEAKER: I shall now put the motion for consideration of the Bill to the vote of the House.

The question is:

"That the Bill to make provisions for the prevention of, and for dealing with, terrorist activities and 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.

The question is:

"That clauses 2 to 64 stand part of the Bill."

The motion was adopted.

Clauses 2 to 64 were added to the Bill.

The Schedule was added to the Bill.

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

SHRI L.K. ADVANI: I beg to move:

"That the Bill be passed."

SHRI BASU DEB ACHARIA : Mr. Deputy-Speaker, Sir, we want division.

MR. DEPUTY-SPEAKER: All right. Let the Lobbies be clearedâ€”

MR. DEPUTY-SPEAKER: Secretary-General may now announce the procedure with regard to operation of Automatic Vote Recording System.

SECRETARY-GENERAL: Kind attention of the hon. Members is invited to the following points in the operation of the Automatic Vote Recording System. One, before a division starts, every hon. Member should occupy his or her own seat and operate the system from that seat only.

- Two, as may kindly be seen, the 'red bulbs above display boards' on either side of hon. Speaker's Chair are already glowing. This means, the voting system has been activated.
- Three, for voting, please press the following two buttons simultaneously immediately after sounding of first gong, namely, one 'red' button in front of the hon. Member on the head phone plate and also any one of the following buttons fixed on the top of desk of seats:

Ayes - Green colour;

Noes - Red colour;

Abstain - Yellow colour.

- Four -It is essential to keep both the buttons pressed till the second gong sound is heard and the red bulbs are off.
- Important: The hon. Members may please note that the vote will not be registered if both buttons are not kept pressed simultaneously till the sounding of the second gong.
- Please do not press the amber button (P) during Division.
- Hon. Members can actually see their vote on display boards and on their desk unit.
- In case vote is not registered, they may call for voting through slips.

MR. DEPUTY-SPEAKER: Now the Lobbies have been cleared.

The question is:

"That the Bill be passed. "

The Lok Sabha divided:

Division No.1 21.57 hrs.

AYES

*A. Narendra, Shri

Abdullah, Shri Omar

Adhi Sankar, Shri
Adsul, Shri Anandrao Vithoba
Advani, Shri L.K.
Ananth Kumar, Shri
Angle, Shri Ramakant
Argal, Shri Ashok
Arya, Dr.(Shrimati) Anita
Atkinson, Shri Denzil B.
Azad, Shri Kirti Jha
Baal, Shri T.R.
'Bachda', Shri Bachi Singh Rawat
Badnore, Shri Vijayendra Pal Singh
Bainda, Shri Ramchander
Bais, Shri Ramesh
Banerjee, Shrimati Jayashree
Barwala, Shri Surendra Singh
Behera, Shri Padmanava
Bhagat, Prof. Dukha
*Corrected/recorded through slip
Bhargava, Shri Girdhari Lal
Bishnoi, Shri Jaswant Singh
Brahmanaiah, Shri A.
C. Suguna Kumari, Dr. (Shrimati)
Chakravarty, Shrimati Bijoya
Chandel, Shri Suresh
Chaubey, Shri Lal Muni
Chaudhary, Shri Haribhai
Chaudhary, Shri Ram Tahal
Chaudhri, Shri Manibhai Ramjibhai
Chauhan, Shri Shriram
Chikhaliya, Shrimati Bhavnaben Devrajbhai
Chinnasamy, Shri M.
Choudhary, Shri Nikhil Kumar
Choudhry, Shri Padam Sen
Chouhan, Shri Shivraj Singh
D'Souza, Dr.(Shrimati) Beatrix
Daggubati, Shri Ramanaidu
Dahal, Shri Bhim

Dalit Ezhilmalai, Shri
Dattatreya, Shri Bandaru
Deo, Shri Bikram Keshari
Devi, Shrimati Kailasho
Dhikale, Shri Uttamrao
Diler, Shri Kishan Lal
Diwathe, Shri Namdeo Harbaji
Durai, Shri M.
Elangovan, Shri P.D.
Fernandes, Shri George
Gadde, Shri Ram Mohan
Gadhavi, Shri P.S.
Gandhi, Shri Dilipkumar Mansukhlal
Gandhi, Shrimati Maneka
Gangwar, Shri Santosh Kumar
Gautam, Shrimati Sheela
Gavit, Shri Ramdas Rupala
Gawali, Kumari Bhavana Pundlikrao
Geete, Shri Anant Gangaram
Gehlot, Shri Thawar Chand
Giluwa, Shri Laxman
Goel, Shri Vijay
Gohain, Shri Rajen
Gupta, Prof.Chaman Lal
*Hussain,Chowdhary Talib
Hussain, Shri Syed Shahnawaz
*Recorded through slip
Jag Mohan, Shri
Jagannath, Dr. Manda
*Jai Prakash, Shri
Jain, Shri Pusp
Jaiswal, Dr. M.P.
Jaiswal, Shri Shankar Prasad
Jatiya, Dr.Satyanarayan
Javiya, Shri G.J.
Jayaseelan, Dr.A.D.K.
Jha, Shri Raghunath
Jigajinagi, Shri Ramesh C.
Joshi, Dr. Murli Manohar

Joshi, Shri Manohar
Kaliappan, Shri K.K.
Kannappan, Shri M.
Kashyap, Shri Bali Ram
Kaswan, Shri Ram Singh
Katara, Shri Babubhai K.
Kataria, Shri Rattan Lal
Kathiria, Dr. Vallabhbhai
Kaushal, Shri Raghuvir Singh
Khaire, Shri Chandrakant
*Corrected/Recorded through slip
Khan, Shri Hassan
Khandelwal, Shri Vijay Kumar
Khanduri, Maj.Gen.(Retd.) B.C.
Khanna, Shri Vinod
Khunte, Shri P.R.
Kriplani, Shri Shrichand
Krishnamraju, Shri
Krishnamurthy, Shri K.E.
Krishnan, Dr. C.
Krishnaswamy, Shri A.
Kulaste, Shri Faggan Singh
Kumar, Shri Arun
Kumar, Shri V. Dhananjaya
Kumarasamy, Shri P.
Kuppusami, Shri C.
Kusmaria, Dr. Ramkrishna
M.Master Mathan, Shri
Mahajan, Shri Y.G.
Mahajan, Shrimati Sumitra
Maharia, Shri Subhash
Mahtab, Shri Bhartruhari
Mahto, Shrimati Abha
Majhi, Shri Parsuram
Malaisamy, Shri K.
Malhotra, Dr. Vijay Kumar
Mallik, Shri Jagannath
Mallikarjunappa, Shri G.
Malyala, Shri Rajaiah

Mandal, Shri Brahma Nand
Mane, Shri Shivaji
Manjay Lal, Shri
Manjhi, Shri Ramjee
Maran, Shri Murasoli
Meena, Shrimati Jas Kaur
Meghwal, Shri Kailash
Mehta, Shrimati Jayawanti
Mishra, Shri Ram Nagina
Mohale, Shri Punnu Lal
Mohite, Shri Subodh
Mookherjee, Shri Satya Brata.
Moorthy, Shri A.K.
Munda, Shri Kariya
Muni Lall, Shri
Murmu, Shri Salkhan
Murthi, Shri, M.V.V.S.
Murugesan, Shri S.
Naik, Shri Ali Mohd.
Naik, Shri Ram
Naik, Shri Shripad Yasso
Nayak, Shri Ananta
Nishad, Capt. Jai Narain Prasad
Nitish Kumar, Shri
Oram, Shri Jual
Palanimanickam, Shri S.S.
Pandian, Shri P.H.
Paranjpe, Shri Prakash
Parthasarathi, Shri B.K.
Passi, Shri Raj Narain
Paswan, Dr. Sanjay
Paswan, Shri Ram Vilas
Paswan, Shri Ramchandra
Paswan, Shri Sukdeo
Patasani, Dr. Prasanna Kumar
Patel, Dr. Ashok
Patel, Shri Chandresh
Patel, Shri Prahlad Singh
Pathak, Shri Harin

Patil, Shri Annasaheb M.K.
Patil, Shri Balasaheb Vikhe
Patil, Shri Danve Raosaheb
Patil, Shri Jaysingrao Gaikwad
Patil, Shri Shriniwas
Patnaik, Shrimati Kumudini
Pawaiya, Shri Jaibhan Singh
Ponnuswamy, Shri E.
Potai, Shri Sohan
Prabhu, Shri Suresh
Pradhan, Dr. Debendra
Pradhan, Shri Ashok
Prasad, Shri V.Sreenivasa
Radhakrishnan, Shri C.P.
Radhakrishnan, Shri Pon
Raja, Shri A.
Ram, Shri Braj Mohan
Ramaiah, Dr. B.B.
Raman, Dr.
Ramachandran, Shri Gingee N.
Ramshakal, Shri
Rana, Shri Kashiram
Rana, Shri Raju
Rao, Shri Ch.Vidyasagar
Rao, Dr. D.V.G.Shankar
*Rao, Shri S.B.P.B.K. Satyanarayana
Rathwa, Shri Ramsinh
Ravi, Shri Sheesh Ram Singh
Rawale, Shri Mohan
Rawat, Prof. Rasa Singh
Rawat, Shri Pradeep
Ray, Shri Bishnu Pada
Reddy, Shri A.P.Jithender
Reddy, Shri Chada Suresh
Reddy, Shri N.R.K.
Renu Kumari, Shrimati
Rudy, Shri Rajiv Pratap
Sahu, Shri Anadi

Sai, Shri Vishnudeo
Samantray, Shri Prabhat
Sanghani, Shri Dileep
Sangwan, Shri Kishan Singh
Saroja, Dr. V.
Sathi, Shri Harpal Singh
Selvaganpathi, Shri T.M.
Sethi, Shri Arjun
Shah, Shri Manabendra
*Corrected/Recorded through slip
Shaheen, Shri Abdul Rashid
Shandil, Col.(Retd.)Dr. Dhani Ram
Shanmugam, Shri N.T.
Shanta Kumar, Shri
Shashi Kumar, Shri
Sikdar, Shri Tapan
Singh Deo, Shrimati Sangeeta Kumari
Singh, Capt. (Retd.) Inder
Singh, Ch.Tejveer
Singh, Dr. Ram Lakhan
Singh, Shri Ajit
Singh, Shri Bahadur
Singh, Shri Brij Bhushan Sharan
Singh, Shri Chandra Pratap
*Singh, Shri Chandra Vijay
Singh, Shri Chhatrapal
Singh, Shri Digvijay
Singh, Shri Maheshwar
Singh, Shri Prabhunath
Singh, Shri Radha Mohan
Singh, Shri Ramanand
Singh, Shri Ramjivan
*Corrected/Recorded through slip
Singh, Shri Rampal
Sinha, Shri Manoj
Sinha, Shri Yashwant
Solanki, Shri Bhupendrasinh
Somaiya, Shri Kirit
Sreenivasan, Shri C.

Srikantappa, Shri D.C.
Srinivasulu, Shri Kalava
Swain, Shri Kharabela
Swami, Shri Chinmayanand
Swami, Shri I.D.
Thakkar, Shrimati Jayaben B.
Thakur, Dr. C.P.
Thakur, Shri Chunni Lal Bhai
Thirunavukkarasar, Shri Su
Tomar, Dr. Ramesh Chand
Tripathee, Shri Ram Naresh
Tirpathi, Shri Prakash Mani
Tripathy, Shri Braja Kishore
Uma Bharati, Kumari
Vaiko, Shri
Vajpayee, Shri Atal Bihari
Varma, Sh. Ratilal Kalidas
Vasava, Shri Mansukhbhai D.
Venkateswarlu, Shri B.
Venkateswarlu, Prof. Ummareddy
Venugopal, Shri D.
Verma, Dr. Sahib Singh
Verma, Prof. Rita
Vetriselvan, Shri V.
Vijaya Kumari, Shrimati D.M.
Vijayan, Shri A.K.S.
Virendra Kumar, Shri
Vukkala, Dr. Rajeswaramma
Wanaga, Shri Chintaman
Yadav, Dr.(Shrimati) Sudha
Yadav, Shri Devendra Prasad
Yadav, Shri Hukumdeo Narayan
Yadav, Shri Jagdambi Prasad
Yadav, Shri Sharad
Yerrannaidu, Shri K.
NOES
Abdullakutty, Shri A.P.
Acharia, Shri Basu Deb

Ahamed, Shri E.
Aiyar, Shri Mani Shankar
Ajaya Kumar, Shri S.
Athawale, Shri Ramdas
Banatwalla, Shri G.M
Bansal, Shri Pawan Kumar
Barman, Shri Ranen
Basavanagoud, Shri Kolur
Basavaraj, Shri G.S.
Basu, Shri Anil
Bauri, Shrimati Sandhya
Baxla, Shri Joachim
Begum Noor Bano
Bhadana, Shri Avtar Singh
Bhagora, Shri Tarachand
Bhatia, Shri R.L.
Bhaura, Shri Bhan Singh
Bhuria, Shri Kantilal
*Bind, Shri Ram Rati
*Recorded through slip
Chakraborty, Shri Ajoy
Chakraborty, Shri Swadesh
Chatterjee, Shri Somnath
Chaturvedi, Shri Satyavrat
Chaudhary, Shri Ram Raghunath
Chennithala, Shri Ramesh
Choudhary, Shrimati Reena
Chowdhary, Shri Adhir
Chowdhary, Shrimati Santosh
*Chowdhury, Shri Bikash
Chowdhury, Shrimati Renuka
*Das, Shri Khagen
Das, Shri Nepal Chandra
Dasmunsi, Shri Priya Ranjan
Dev, Shri Sontosh Mohan
Dome, Dr. Ram Chandra
Dudi, Shri Rameshwar
Dullo, Shri Shamsheer Singh

Eden, Shri George
Farook, Shri M.O.H.
Galib, Shri G.S.
Gamang, Shrimati Hema
*Corrected/Recorded through slip
Gamlin, Shri Jarbom
Gandhi, Shrimati Sonia
Gavit, Shri Manikrao Hodlya
George, Shri K. Francis
Ghatowar, Shri Paban Singh
*Gogoi, Shri Dip
*Gowda, Shri G.Putta Swamy
Hamid, Shri Abdul
Handique, Shri Bijoy
Hansda, Shri Thomas
Hassan, Shri Moinul
Jaffer Sharief, Shri C.K.
*Jaiswal, Shri Shriprakash
Jalappa, Shri R.L.
Jos, Shri A.C.
Kamal Nath, Shri
*Karunakaran, Shri K.
Kaur, Shrimati Preneet
Khan, Shri Abul Hasnat
Khan, Shri Sunil
Krishnadas, Shri N.N.
Kurup, Shri Suresh
*Corrected/Recorded through slip
Kyndiah, Shri P.R.
Lahiri, Shri Samik
Mahale, Shri Haribhau Shankar
Mahant, Dr. Charan Das
Mahato, Shri Bir Singh
*Makwana, Shri Savshibhai
Mandal, Shri Sanat Kumar
Meena, Shri Bherulal
*Mistry, Shri Madhusudan
Mohan, Shri P.
Mollah, Shri Hannan

Muniyappa, Shri K.H.
Muraleedharan, Shri K.
Murmu, Shri Rupchand
Naik, Shri A. Venkatesh
Narah, Shrimati Ranee
Ola, Shri Sis Ram
Osmani, Shri A.F. Golam
Pal, Shri Rupchand
Panda, Shri Prabodh
Patel, Shri Atmaram Bhai
Patel, Shri Tarachand Shivaji
*Corrected/Recorded through slip
Patil, Shri Amarsinh Vasantryao
Patil, Shri Danve Raosaheb
*Patil, Shri Prakash V.
Patil, Shri R.S.
Patil, Shri Shivraj V.
Pilot, Smt. Rama
Pramanik, Prof. R.R.
Premajam, Prof. A.K. (Badagara)
Puglia, Shri Naresh (Chandrapur)
Radhakrishnan, Shri Varkala
Rajbangshi, Shri Madhab
Rajendran, Shri P.
Rajukhedi, Shri Gajendra Singh
Rashtrapal, Shri Pravin
Rau, Shrimati Prabha
Reddy, Shri N. Janardhana
Reddy, Shri S. Jaipal
Riyan, Shri Baju Ban
Roy, Shri Subodh
Roy Pradhan, Shri Amar
Saiduzzama, Shri
Sangtam, Shri K.A.
*Corrected through slip
Sar, Shri Nikhilaranda
Saradgi, Shri Iqbal Ahmed
Saroj, Shri Tufani
Saroj, Shrimati Sushila

Sen, Shrimati Minati
Seth, Shri Lakshman
Shahabuddin, Mohd.
Shakya, Shri Raghuraj Singh
Sharma, Capt. Satish
Shinde, Shri Sushil Kumar
*Shukla, Shri Shyamacharan
Singh Deo, Shri K.P.
Singh, Dr. Raghuvansh Prasad
Singh, Kunwar Akhilesh
Singh, Sardar Buta
Singh, Shri Balbir
Singh, Shri C.N.
Singh, Shri Khel Sai
Singh, Shri Lakshman
Singh, Shri Rajo
Singh, Shri Ram Prasad
Singh, Shrimati Kanti
*Corrected/Recorded through slip
Singh, Shrimati Shyama
Sivakumar, Shri V.S.
Sorake, Shri Vinay Kumar
Subba, Shri M.K.
Sudarsana Natchiappan, Shri E.M.
Suman, Shri Ramji Lal
Suresh, Shri Kodikunnil
Tiwari, Shri Sunder Lal
Topdar, Shri Tarit Baran
Verma, Shri Beni Prasad
Verma, Shri Ram Murti Singh
Verma, Shri Ravi Prakash
Vyas, Dr. Girija
Wangcha, Shri Rajkumar
Yadav, Shri Akhilesh
Yadav, Shri Mulayam Singh
Zahedi, Shri Mahboob

...(Interruptions)

MR. DEPUTY SPEAKER: Subject to correction, the result of the division is:

Ayes: 261

Noes: 137

The motion was adopted.

...(Interruptions)

22.02 hrs

**(Shrimati Sonia Gandhi, Shri Somnath Chatterjee and some other
hon. Members then left the House.)**

...(Interruptions)

***Ayes** – 261+ Shri A. Narendra, Shri Jai Prakash, Shri S.B.P.B.K. Satyanarayan, Shri Chandra Vijay Singh, Chowdhary Talib Hussin corrected/recorded through slips. Shri Savshibhai Makwana and Shri Shyamacharan Shukla corrected from Ayes to Noes. 261+5-2=264

Noes – 137 +Shri Ram Rati Bind, Shri Bikash Cowdhury, Shri Khagen Das, Shri Dip Gogoi, Shri G. Putta Swamy Gowda, Shri Shriprakash Jaiswal, Shri K. Karunakaran, Shri Savshibhai Makwana, Shri Madhusudan Mistry, Shri Prakash V. Patil, Shri Shyamacharan Shukla corrected/Recorded through slips. 137+11 =148.

21.15 hrs.