

14.23 hrs.

Title: Further consideration and passing of the Explosive Substances (Amendment) Bill, 2001 moved by Shri Ch. Vidyasagar Rao on the 29th November, 2001 (Concluded).

MR. SPEAKER: We shall now take up item no. 15. Prof. Pramanik, you can continue your speech now.

PROF. R.R. PRAMANIK (MATHURAPUR): Mr. Speaker, Sir, in continuation of my incomplete speech on the 29th November on the Explosive Substances (Amendment) Bill, 2001, I rise to conclude it.

Sir, as I told at that time and still I tell now that the explosive substances and the special category of explosive substance have not been properly defined. The definition is incomplete, improper and not precise. So, it should be correctly and precisely defined. In law, everything should be precise, pointed and clear because the implications are very important and grave. So, it should be properly defined.

Now, there is no thing as special category of explosive. Explosive substances are either conventional or non-conventional. The conventional explosive substances are defined under four categories. One is the blast category such as dynamite which is used for construction in mines and tunnels. The second one is primary explosives which are being used as detonators such as Leadazide and Mercury Fulminate. The third one is the lethal explosives which are included here as special category of substances. It is actually the military explosives such as RDX, PETN, etc.

There are so many military explosive substances. And the fourth one is a propellant explosive which is used to give acceleration to the ballistic missiles or to the rockets, such as black powder or nitro-cellulose mixed with Ethyl Ether and Ethyl Alcohol. But here special category of explosives is meaningless. It should be correctly, properly and scientifically defined. It cannot be defined according to one's own desire. Scientifically, it has got a specific meaning

The second thing I wanted to include is non-conventional explosive substance, that is, the nuclear substances like Uranium-235 and Plutonium. Hon. Mr. Speaker, Sir, perhaps, you have seen in the newspapers that small atom bomb and trashcan atom bombs are the realities.

14.26 hrs. (Shri Basu Deb Acharia *in the Chair*)

The sub-critical mass of this nuclear substance can be rendered critical by suitable configuration and compression. Only one kilogram of Uranium-235 or Plutonium can be used to make a small atom bomb which is called as 'dirty atom bomb or suitcase atom bomb or trashcan atom bomb. So, it is the reality. One bomb with one kilogram of Uranium-235 or Plutonium is equivalent to 300 metric tonnes of TNT. I know trashcan atom bomb is a very peculiar type of bomb. Just explosive is to be put inside. If a conventional one is blasted, its radioactive fragments will pollute the whole atmosphere. It will pollute immediately whatever our big cities are there, such New Delhi, Chennai, Mumbai and Kolkata. Later on, thousands will die of cancer and the whole population will have to be evacuated from this city because of radiation. So, it is a very dangerous explosive. This should be included here.

Non-conventional explosive substances should be included in this Bill. Only one kilogram will be sufficient enough to destroy the city. That bomb can easily be constructed. Now, it is in the newspaper that suitcase atom bombs are in the hands of the Talibans. Perhaps, you have seen it in the newspaper. According to scientists, this is the reality.

Another one that I tried most is not to introduce the capital punishment. Civilised people are of the opinion that capital punishment should be abolished. I have told this previously. Again I will tell you this. According to Mahatma Gandhi, the Father of the Nation, God alone can take life because he alone can give it. We have no right to take the life of the others. One should be very particular about that. You are making a law. I do not know what do you mean by ordinary explosive. What do you mean by special category of explosive? It is meaningless to me because it should be scientifically defined. An explosion is there. No human life is lost. No property is lost. Still there is a capital punishment, that is, life imprisonment for the explosive and capital punishment for the special category of explosive. It is very strange. The consequences are being the same but the punishments are different. I told you this. If a man is killed by a pipe gun or a revolver, what is the difference? The consequence is that the man is dead. But one is killed by a pipe gun and the other by a revolver. So, why will the punishment be different? Explosion is done by the explosive. If an explosion is done by the special category of explosives, according to your term, the punishment is capital punishment.

I would request you to withdraw the provision for capital punishment. You may give as rigorous a punishment as possible like rigorous life imprisonment but not capital punishment. In this connection, hon. Chairman, I would like to remind our hon. Minister who has brought in this Bill of what happened to Robes Sphere. He introduced the guillotine during the French Revolution and that very guillotine fell on his neck. So, lawmakers should remember

that history. One should be very cautious before introducing capital punishment. ...(*Interruptions*)

I think, my time is short.

MR. CHAIRMAN : You may please conclude within one or two minutes.

PROF. R.R. PRAMANIK : I will not take much time. I am very precise. I am a student of mathematics. I would conclude within one or two minutes.

Mr. Chairman, Sir, when it comes to military explosives, the use of the expression 'special category of explosives' is meaningless. The hon. Minister should understand his or he must consult his advisors. Military explosives include TNT, RDX, cyclotrimethylene PETN, trinitronitramine, cyclotol, pentolite, etc., which are not included in the Bill. I mention all this because military explosives include many such substances that are high explosives but in the Bill all the substances are not included. What will happen when this Bill is enacted and applied to other chemicals and explosives that are not included here? So, there should be a provision for military explosives. ...(*Interruptions*)

Anthrax is not an explosive. It is a biological weapon.

Trash atom bomb is a reality now according to nuclear scientists of the world. I am mentioning this so that the hon. Minister might please include this also.

A provision has been put in here that the District Magistrate would decide the matter. My amendment is that it should be a Judicial Magistrate of the First Class. A District Magistrate deals only with development activities, etc. So, this should be decided by a Judicial Magistrate of the First Class; not even of the Second Class.

I have given notice for amendments. If you permit, when I move my amendments, I would be allowed to speak again for a few minutes on those amendments.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): I rise to support the amending provisions of the Explosive Substances Act, 1908, as being amended now.

Before I go into the main provisions of the amending Act itself, I would like to go into the genesis of this Act. Let us start with the Explosives Act of 1884. The definition of the Explosives Act would clarify certain matters that have been raised by Prof. R.R. Pramanik.

In the Explosives Act, 1884, an 'explosive substance' has been defined as 'gun powder, TNT, fulminate of mercury, etc.', as he was mentioning, 'manufactured to produce a practical effect of explosion or pyrotechnic effect'. From that, we have to come to the Explosive Substances Act.

I am not going into the Explosives Act. What Shri Pramanik said about the military hardware and other explosives would be covered by the Explosives Act, 1884. In the aftermath of the partition of Bengal and all those difficulties the then Government had faced, this Explosive Substances Act came into force. For making explosives certain items are necessary. Those items might look innocuous.

Those items may look innocent to start with, but taken together, they may go into pyro-technique effect or explosive effect. I give instances of nitro glycerine, which is being used; different types of articles are being taken into consideration for preparing nitro glycerine.

Sir, only a few days back, I suppose, there has been an explosion in Itarsi. So far as preparation of nitro-glycerine is concerned, merely potash, camphor, sulphur and such type of things ordinarily could not create any problem, but when they are sensitised they explode, and explode with a view to create a devastation among the people who have been living in that area or in the society at large. That is why, the Explosive Substances Act was enacted in those days and because of technological advances and sadistic behaviour of human beings and the vicarious pleasure that some groups of people may get in killing persons mercilessly, as if they are killing flies. That is why, the Explosive Substances Act had to be amended from time to time. For this purpose only, this amending provision has come.

Sir, I would beg to differ with Prof. Pramanik when he said that capital punishment should not be there. May I say let an individual suffer, but let the nation not grieve. That should be the cardinal principle. Whenever you are thinking of enacting a provision, it is necessary if death occurs or there is an intention to cause death, a person who has been creating this type of effect should be terminated from this world. That should be the cardinal principle whenever we think of jurisprudence. That is why, I beg to differ with him.

Now, I give another instance. He has indicated about TNT – tri nitro toluene. If benzene and nitrogen are compounded together, a formulation is prepared by which TNT comes up. Now, that formulation can be different with different ingredients. In preparing a formulation, a scientist of great intellect can make some other things, not to

look like TNT but to look like something else and create devastation in society. That is why, it has been very clearly indicated in this amending provision.

Sir, I would invite the attention of all of us to Section 2(b), and the last sentence itself:

"causing explosion and any other substance and a combination thereof which the Central Government may, by notification in the official Gazette, specify for the purposes of this Act."

So, it is an unending process by which the Central Government by notification can say as to what are the combinations that explode in a given point of time or in a given situation. That is why, it is an elastic provision which should not be having any difficulty to understand. He had indicated about atomic fusion and fission. That is why, as he is a Physicist, I cannot explain those things to him. But I, being a police man go by the Act itself.

Sir, the Atomic Energy Act, 1962 says:

"Atomic energy means energy released from atomic nuclein as a result of any process including any fission and fusion processes."

Fission is not in the Explosive Substances Act; it is only fusion that is being taken into account. If my knowledge is correct, as I said I am not a Physicist, so what I would like to say is...*(Interruptions)*

MR. CHAIRMAN : There is a difference between a scientist and a police officer. He is a Scientist.

SHRI ANADI SAHU : Sir, I, being a Police Officer, am not going into the realities of facts. We have an Atomic Energy Act itself where penal provisions are there. In case it is necessary, as he has indicated about Taliban and that we should take action against them, it can come within the purview of the Explosive Substances Act. There will be no difficulty at all. But it would require the amendment of the Atomic Energy Act itself to bring all these provisions into the purview of the Explosive Substances Act.

Sir, so far as the Explosive Substances (Amendment) Bill is concerned, it has three stages.

One is that there must be explosive substances; there must be special category explosive substances. As I have indicated earlier, technological advances have made rapid strides. There is Research Development Explosive(RDX), Improvised Explosive Device(IED) and there are many other things which have very high plasticity and total destruction which cannot be ordinarily detected by metal detectors, by sniffer dogs or by human eyes themselves. It may look like a liquid. As you have seen in *The Mahabharata*, *Maya Davav* had prepared a pond which looked as if there was nothing but only stone. It was so transparent and there was some other thing which looked transparent but stone was there. So, the human-beings may be misled because of the high technical advances which have been made by persons who would like to destroy this world by the vicarious pleasure they take in destruction.

As I said earlier, there are two types of explosives – one is explosive substances and the second is special category explosive substances. So far as the explosive substances are concerned, stringent provisions have not been indicated. But so far as the special category explosive substances are concerned, that is the second category, stringent punishment has been indicated because that is creating or causing much devastation in the present Indian society.

I would invite your attention to POTO. Why has POTO been brought in? It is brought in because it is necessary to curb the activities of terrorists and the normal laws of the land are not adequate enough to curb these activities. That is why the special provisions have been brought in. The difference between the Explosive Substances (Amendment) Act and the POTO is that the latter it is a sunset law; POTO is a sunset law whereas this is a continuous process, till it is amended. But I may inform that this amending provision is more stringent than the POTO itself.

The Standing Committee on Home Affairs, in its deliberation, made a very far-reaching remark. It is a prophetic remark. It is in para 11.2. It says :

"The Committee was of the view that the Government may bring in a comprehensive piece of legislation to deal with all kinds of terrorists, subversive activities to suit the existing situation."

This Committee was presided over by hon. Shri Pranab Mukherjee and Members from all the parties were present there, including Dr. Raghuvansh Prasad Singh. ...*(Interruptions)* Why was this remark given by the Standing Committee on Home Affairs? It was given because the existing provisions are not adequate. ...*(Interruptions)* Kindly

allow me to speak. Kindly do not disturb me.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : अनुशंसा कॉम्प्रीहेंसिव लॉ लाने के लिए है, ड्रैकोनियन लॉ लाने के लिए नहीं है। (व्यवधान)

समापति महोदय : आपका नाम लिस्ट में है, जब मौका आयेगा, तब आप बोलिये।

SHRI ANADI SAHU : Sir, I would request the hon. Member to allow me to complete my speech. He should not disturb me. I am not saying anything. I am only quoting from the remarks of the Standing Committee on Home Affairs. The report had been presented to both Houses of Parliament and on the basis of this the Rajya Sabha has already passed this amending provision.

That is why I said that whenever there is necessity of stringent provisions, they should come. Now POTO has come in order to ensure that those of the terrorists who are creating trouble be taken to task and put inside the prison in a proper manner. The steps indicated are not draconian.

You will kindly see that in the case of special category of explosive substances it has been clearly indicated as to what are the penal provisions that are there. They are death or rigorous imprisonment for life which have been indicated. That is why rigorous imprisonment is necessary to prevent people from manufacturing special types of explosive substances whereas in case of ordinary explosive substances the punishment is upto 10 years. It has been taken into account to indicate that some sort of a coercive method has to be adopted to prevent people from manufacturing these explosive substances, special category explosive substances.

I would say that minimum punishment has to be prescribed in any Act that is to come, including the POTO. In POTO minimum punishment of five years has been provided for. It is necessary to act as a deterrent for people who are committing crimes at their will, as they like. This is absolutely necessary. But, I am sorry to inform the hon. Minister, through the Chair, that the penal provisions which have been indicated in Clause 4 and Clause 5 are not adequate. A minimum punishment should have been provided in those two clauses also. I say this because our aim is to see that people who are making explosive substances, people who are intending to make special category explosive substances, and people who have been having laboratories to make formulations to prepare special category explosive substances are taken to task.

There might be a feeling among some sections that even those who do not have any intention of making any explosive substances, or special category explosive substances, will be taken to task. No, Sir, that is not correct. I would invite your attention to Clause 5, where it has been indicated that it will be done on reasonable suspicion only. That means, *mens rea*. In the criminal jurisprudence, *mens rea* is a very important concept. But, I would suggest that as in the Narcotic Drugs and Psychotropic Substances Act, the burden of proof should be put on the accused himself to prove his innocence. Here in this Act, mere possession should be punishable as in the case of forged currency notes. If we give any latitude, the courts may give their interpretation and the entire purpose of the process by which this amending provisions are brought into force will be defeated.

To come to sanction for prosecution, as a policeman I have seen that it used to take years to get sanction for prosecuting persons under Explosive Substances Act. It is absolutely necessary now that the District Magistrates be authorised to give sanction. It is being sought to be done through this amending provision. If you give it to judicial authorities, any type of judicial intervention is likely to take place and that would be time-consuming. I am sorry to say that the judiciary does not take into account the reality that is prevalent in the field. The District Magistrate is an officer of high rank. If he gives sanction for prosecution, there should be nothing wrong in that. There are many other laws under which sanction for prosecution is given by the District Magistrate. Take the case of Section 25 of the Arms Act. Powers have been delegated by the State Governments. The District Magistrates have been exercising their power in a very judicious manner. In case the power is not exercised in a judicious manner, anybody can go to the High Court and other courts to get redressal. It should not be thought that the District Magistrate is not the right authority to accord sanction.

I know of many instances in the thirty years of my police life, in which the District Magistrates have refused to give their sanction for prosecution under Arms Act, for reasons they had indicated in their order sheets. We should find out ways by which an expeditious step is taken to prosecute the accused persons who are going round creating lots of trouble. Take the case of LTTE which has caused devastation, and which has been causing some sort of devastation in the South; take the case of the North-East area where lots of terrorists are working; take the case of ISI personnel who have been creating problems. Take terrorists belonging to Lashkar-e-Tayyiba, Jaish-e-Mohammad and all other terrorist organisations who are sub-human characters, I would call them that, who do not bat their eyelids before killing hundreds of people. Within the last five years, something like five thousand explosions have taken place, and hundreds and thousands of people have been killed. If you do not have very stringent measures in place, it will be very difficult to curb these activities.

That is why, now you will see that the POTO and the Explosive Substances amending provisions will go together

and strengthen the hands of Administration.

It is not the question of Central Government; it is not the question of any State Government. Entire India has to be taken into account to ensure that the people do not suffer and to ensure that those who are intentionally indulging in the wrong doings must be curbed in a very efficient and firm manner.

With these few words I support the Bill.

डॉ. रघुवंश प्रसाद सिंह : सभापति महोदय, विस्फोटक पदार्थ अधिनियम जो सदन में विचार करने के लिए प्रस्तुत किया गया है, मूल रूप से वह सन् 1908 का है, जिस समय बड़ा अनुसंधान नहीं हुआ था। सदन में अब नया विस्फोटक विधेयक प्रस्तुत किया गया है। नया अनुसंधान यह है कि आरडीएक्स पाउडर जैसा पदार्थ है, जो विध्वंस कर देता है। हमने देखा तो नहीं है, अखबारों में पढ़ा है कि कहीं एक किलो आरडीएक्स मिला और कहीं पांच किलो आरडीएक्स मिला। घटना घट गई, तो तहस-नहस कर दिया और लोगों की सम्पत्ति भी बर्बाद हो गई। विस्फोटक पदार्थ की डैफिनिशन के बारे में प्रो. प्रमाणिक जी ने बताया है। डैफिनिशन ऐसी होनी चाहिए, जिसको पढ़कर अनजान व्यक्ति भी समझ जाए कि क्या मतलब है। एक्सप्लोजिक्स सबस्टेंस का डैफिनिशन है, पदार्थ एक्सप्लोजिक्स सबस्टेंस डैफिनिशन है। कोई कहे, आदमी की परिभाषा बताइए, तो बताए कि देखने में आदमी जान पड़े। यह परिभाषा भी कोई परिभाषा है। परिभाषा होनी चाहिए, ऐसा पदार्थ जो ठोस, द्रव्य या गैस हो, जिससे रियैक्शन हो और प्रेशर तथा ताप बहुत बढ़ जाए - कुछ इस तरह की परिभाषा विस्फोटक पदार्थ की होनी चाहिए। ऐसे तो गांवों में लड़का पटाखे छोड़ता है, वह भी विस्फोटक पदार्थ में आ जाएगा। दीवाली के त्यौहार पर हम लोग देश भर में देखते हैं कि पटाखे छोड़े जाते हैं और ऐसी स्थिति में यह सब पर अमल में आ जाएगा। **श्री (व्यवधान)** विस्फोटक पदार्थ की परिभाषा ठीक होनी चाहिए, तब ही यह अच्छा कानून बनेगा। राज्य सभा में यह पास नहीं हो सका, इसलिए यह दोबारा लाया गया है। लेकिन दोबारा भी अधिकारी वही कह रहे हैं, जो पहले था, तो किसको पास करें। इसलिए पहली बात यह है कि इसकी परिभाषा दुरुस्त करवाई जाए।

दूसरे, इस विधेयक में प्रावधान है कि विस्फोटक पदार्थ रखने से उसको फांसी की सजा होगी। यह कड़ी सजा है। मान लीजिए, किसी भले आदमी के घर में कोई बदमाश यह पदार्थ रख देता है, वह बेचारा अनजान आदमी है, लेकिन जिसके यहां पदार्थ मिलेगा, वह तो मारा जाएगा। इसलिए इसमें संशोधन की आवश्यकता है। इस कानून के द्वारा किसी बेकसूर को सजा न हो। जुरिसप्रुडेंस का सिद्धान्त है - कोई कसूरवार बिना सजा के छूट जाए, उतना खराब नहीं है, जितना कि बेकसूर को सजा हो जाए।

यह ज्यूरिसप्रुडेंस का सिद्धान्त है, जो कानून विधि विज्ञान कह रहे हैं। ऐसे मामले में ऐसा कड़ा कानून बनाया, जिसे कोई अंजान आदमी नहीं जान रहा है। ये लिख रहे हैं कि किसी के पास विस्फोटक पदार्थ पाए जाने से उन्हें फांसी की सजा दी जाएगी। अगर कोई उसे फसाने के लिए उसकी जेब में किसी चीज में भर कर रख दे और उसके बाद उसे पकड़ ले तो ये कहेंगे कि आपके पास से मिला है, आपको फांसी देंगे। इसलिए यह पूरा डिफाइन होना चाहिए। यह साबित हो जाए कि इन्होंने जान-बूझ कर अपने पास रखा है तब इन्हें सजा के लिए कानून लागू करना चाहिए, अन्यथा गांव में किसान के खेत में जाकर कोई रख दे तो ये कहेंगे कि आपके खेत में मिला है, हम आपको पकड़ेंगे। वहां वे घास-फूस और भूसा रखते हैं, वहां कोई जाकर विस्फोटक पदार्थ रख देगा तो ये कहेंगे कि आपके भूसे में से मिला है और उसे पकड़ लेंगे। इसलिए इसमें स्पष्ट होना चाहिए कि इस तरह कोई प्लान करके उसे फंसाना चाहे तो उसे बरी होने की गुंजाइश होनी चाहिए, अन्यथा सब अपराधी लोग भले आदमी को फसा देंगे, जिससे नाराजगी होगी, उसे फसा देंगे। इसलिए इस कानून में सुधार की जरूरत है।

महोदय, यह विस्फोटक उस जमाने का है। ऑलफ्रेड नोबल साहब ने डायनामाइट निकाला। उन्होंने इसका अतिकार किया, उससे जो आमदनी हुई उसी से दुनिया भर में नोबल पुरस्कार बंट रहा है। ये 1908 का कानून रखे हुए हैं। अब एटोमिक न्यूक्लियर विस्फोटक पदार्थ बन रहा है। जहां-तहां सुनते हैं और अखबारों में भी पढ़ते हैं, अपराधी लोगों ने कहीं-कहीं हासिल भी कर लिया। यूरेनियम, प्लुटोनियम, रेडियोधर्मी पदार्थ कोई ले लेता है, पता नहीं उस हालत में इन्होंने प्रावधान किया है या नहीं किया है। पोखरन में इन लोगों ने एटोमिक विस्फोट किया था। ये कैसे कानून बना रहे हैं, यह प्रावधान उसमें है या नहीं, उसमें देखा जाए। इन लोगों ने पोखरन में विस्फोट कराया, दुनिया में हंगामा कराया, ऐसे विस्फोटक पदार्थ वाले कानून का प्रावधान है या नहीं। सरकारी स्तर पर होगा तो उस केस में बरी नहीं होगा। हमने क्लार्क पढ़ा है, उसमें नहीं है। ये क्या कानून बना रहे हैं। इस सारे कानून को ठीक से देखें, जो आधुनिक कंवेन्शनल विस्फोटक पदार्थ वाला कानून है और अभी जो माडर्न विस्फोटक पदार्थ वाला है, इन दोनों को डैफिनेशन में शामिल होना चाहिए। सरकार का जो एटोमिक प्रयोग है और पोखरन का एक्सपेरिमेंट है उससे ये बरी हो जाएं। ये जो कानून बना रहे हैं, इससे तो सब सरकार के लोग जेल में चले जाएंगे। यह फांसी का कड़ा कानून है। अभी जो न्यूक्लियर आधुनिक पदार्थ है, प्रमाणिक साहब कहते हैं कि इसमें एंथ्रैक्स वाला नहीं रहेगा, लेकिन वह कम खतरनाक है। गृह मंत्री जी घबड़ा गए, जब गृह मंत्रालय में वह चिट्ठी गई। उसमें पाउडर था, उसकी अब ये जांच करवा रहे हैं। विस्फोटक पदार्थ में प्रोफेसर साहब कहते हैं कि एंथ्रैक्स का पाउडर नहीं होगा, उसके लिए अलग से कोई कानून है। क्या इस पर दुनिया में कम हल्ला है। इसके कीटाणुओं से, इसे छूने से या देखने से बीमारी हो जाती है, इन सब का भी ख्याल होना चाहिए। जैसे-जैसे विकास हो रहा है उसमें इसका भी प्रावधान होना चाहिए। ऐसा कोई सख्त कानून न बने, जिससे बेकसूर लोग दंडित हो जाएं। यह इतना खतरनाक और कड़ा कानून बन रहा है, जो विध्वंस करने वाला है उस पर कार्यवाही करनी चाहिए।

वे कहते हैं कि यह पोटो से भी कड़ा कानून है। पोटो वाले में आतंकवाद के नाम पर पहले गृह मंत्री जी ने दावा किया है कि सबसे ज्यादा हमने आतंकवाद को ठंडा किया है और अब ये बिना पोटो के आतंकवाद को ठंडा कर रहे हैं। फिर पोटो कानून की क्या आवश्यकता है। **श्री (व्यवधान)** इसलिए ये जो कर रहे हैं इसे हम नहीं होने देंगे, हम इसका डट कर विरोध करेंगे। अगर इसमें सुधार करेंगे तो हम इसका समर्थन करेंगे।

15.00 hrs.

SHRI SUDIP BANDYOPADHYAY (CALCUTTA NORTH WEST): Sir, I rise to support the Explosive Substances (Amendment) Bill which has already been discussed, amended and passed in the Rajya Sabha.

Nowadays, the whole nation is afraid, frightened and panic-stricken because when and where the explosion will take place, nobody knows. I still remember the day when the then hon. President of India, Dr. Shankar Dayal Sharma, was in Calcutta. We went to the *Raj Bhavan* to submit some memorandum to the President, when he told us that a severe explosion had taken place in Mumbai which had caused huge damage to both the life and property of the common people and the economy of the nation as a whole. RDX was responsible for this explosion. People of this country actually became aware of the word RDX when this explosion had taken place in Mumbai.

While going through the Bill I realise that this Bill seeks to include some explosive substances, which includes RDX, High melting explosives, Tri Nitro Toluene, low temperature plastic explosives and a few others. This is not a big

amending Bill. A provision regarding rigorous punishment, involving life imprisonment, is also there. We are more concerned about some serious incidents taking place, particularly in a few States like Jammu and Kashmir, Andhra Pradesh, West Bengal, Orissa and Northeastern regions. It is always to be seen that the persons actually involved in such type of explosions should be dealt with firmly. The criminals, who are activating their actions either through explosions, detonators or remote control should not be spared at all. We have seen a number of such incidents in our country. There was an explosion in our State at NJP Railway Station. It took place through the remote control and detonators.

Those guilty of causing huge damage not only to the life and property of common individuals but also to the Indian economy should be dealt with severely. I fully agree that the punishment be extended and it should be made as the life imprisonment. It is always to be seen that such powers should not be misused. District Magistrates have been fully authorised, in place of the Central Government, to take control of this issue. Some of our colleagues have mentioned that it should be handed over to the judicial magistrates. While others suggested that District Magistrates will be sufficient to do the work. We apprehend that on many occasions political motivations may cause damages to the opponent political Party. It may be utilised for such activities. I apprehend, as mentioned by Shri Raghuvansh Prasad Singh, if somebody is carrying dynamite in some lorry for tunnel work, will he be arrested?

These are the points which are to be discussed because explosives are used for the development work also. Therefore, we have to keep this in mind. We use dynamite for the development work. So, who will actually detect? If somebody is driving a lorry carrying dynamite for some development purpose and he gets arrested on the road, will he be saved? So, certificates are to be issued in such cases in a very proper manner.

Sir, this Bill has no restrictions. The RDX has newly been introduced. So many other explosives have been inducted in this Bill. Nobody knows if, after five years, again many other explosives may emerge. Now, anthrax is being discussed in the House. So long as terrorism at the international level is growing, these ideas have to be penetrated in the minds of the people of this country also because India is the worst sufferer of terrorism. In Jammu and Kashmir, these types of explosives are being used. So many dreaded criminals are operating from Dubai and other countries. So many notorious and anti-social criminals of the world are operating from abroad. They are sending RDX and other types of explosives.

So, on behalf of my Party, I fully support the Bill. We fully believe that this is a very timely Bill, but the Minister should be cautious that this is not misused and that these powers are properly used. The purpose of adopting this Bill should be properly put in the minds of those who would use it. They should feel that the Government is very cautious in using more and more stringent powers so that these things can be stopped.

श्री रामजीलाल सुमन (फिरोजाबाद) : सभापति महोदय, आज हम लोग विस्फोटक पदार्थ विधेयक 1908 में और संशोधन करने संबंधी बिल पर चर्चा कर रहे हैं जो 1908 का बहुत पुराना कानून था। इस बीच में आदमी का दिमाग बदला और समाज का मिजाज बदला। विज्ञान ने तमाम खोजें की हैं। इससे तरह-तरह की चीजें पैदा हुईं। यह बात अपनी जगह बिल्कुल सही है कि विज्ञान वरदान भी है और अभिशाप भी। उन्हीं के चलते इन चीजों का यहां जिक्र किया गया। विस्फोटक पदार्थों में आरडीएक्स, पीईटीएन, एचएमएक्स, टीएनटी, एलटीपीई, सीई ओसीटीओएल इत्यादि आते हैं।

यह बात सही है कि आरडीएक्स के लगभग पांच हजार विस्फोट देश में हुए। यह बात भी दुरुस्त है कि जांच परिणामों के मुताबिक श्री राजीव गांधी और पंजाब के पूर्व मुख्यमंत्री सरदार बेअंत सिंह की भी हत्या आरडीएक्स का प्रयोग करने से हुई। निश्चित रूप से यह एक गम्भीर मामला है। यह बात दुरुस्त है कि इसका निर्माण हमारे देश में नहीं होता है। इसका निर्माण बाहर होता है लेकिन जिस मुस्तेदी से इनके आगमन पर रोक लगनी चाहिए, उतनी मुस्तेदी से सरकार उसे नहीं कर पाई। इन विस्फोटक पदार्थों का आना रुके, इसके लिए सरकार के पास जो तंत्र है, वह भी आधुनिक होना चाहिए।

बस स्टेशन, रेलवे स्टेशन और हवाई अड्डों पर एक्स-रे मशीन भी डिटेक्ट नहीं कर पाती हैं। लिहाजा जानकारी हासिल करने के लिये कि विस्फोटक पदार्थ कहां से आ रहा है, कौन ला रहा है, उसकी जांच के तौर-तरीके आधुनिक होने चाहिये। मैं मोटे तौर पर कहना चाहता हूँ कि आतंकवादी गतिविधियों पर अंकुश लगाने के लिये इस कानून में संशोधन किया जा रहा है। माननीय गृह राज्य मंत्री को यह नहीं भूलना चाहिये कि जब इस तरह के कानून में संशोधन किया जाता है या आतंकवाद के नाम पर इस तरह के कानून बनते हैं, तब देश में बड़े पैमाने पर कानून का दुरुपयोग किया जाता है। यदि टाडा जैसे कानून से सरकार सबक नहीं सीख सकती तो इससे बड़ी भूल और कोई नहीं हो सकती। हमारे देश में टाडा में लगभग 76 हजार मामले दर्ज हुये जिनमें सिर्फ 760 केसेज़ में ही इन लोगों पर चार्ज प्रूव कर पाये और यह बता पाये कि वे वे टाडा कानून के तहत दोषी हैं।

सभापति महोदय, जहां तक इस कानून का सवाल है, वह तो ठीक है लेकिन इस कानून को लागू करने की नीयत ठीक नहीं है। मुझे लगता है कि जो कानून आप बना रहे हैं या जो कुछ कर रहे हैं, इसका व्यावहारिक परिणाम क्या निकलेगा, मैं चाहूंगा कि आप विस्फोटक पदार्थ की परिभाषा ठीक ढंग से डिफाइन करें।

सभापति महोदय, हम शादी, जुलूस, जश्न में विस्फोटक पदार्थों का प्रयोग करते हैं। इसका प्रयोग दीवाली, मेले तथा तमाशों में भी किया जाता है। इस कानून की आड़ में कहीं गरीब आदमी बलि का बकरा न बन जाये, इस बात का हमें ध्यान करना चाहिये। कानून में संशोधन के जरिये मृत्यु या आजीवन कारावास की व्यवस्था की गई है। इसमें कारावास पर्याप्त है, मृत्युदंड की आवश्यकता नहीं है।

सभापति महोदय, बिल के अंतिम पैरा 6 में कहा गया है कि सैक्शन-7 में जो शब्द 'केन्द्र सरकार' था, उसके स्थान पर 'डिस्ट्रिक्ट मैजिस्ट्रेट' रखा जायेगा। आपसे अपेक्षा यह की जाती है कि राज्य सरकार के चंगुल से आप इसे मुक्त रखें। डिस्ट्रिक्ट मैजिस्ट्रेट राज्य सरकार का अधिकृत व्यक्ति होता है। मैं समझता हूँ कि इसे लागू करने के लिये अगर कोई विश्वसनीय जांच एजेंसी को आप नहीं रखेंगे तो निश्चित रूप से इस कानून का दुरुपयोग होगा। इसलिये आप कोई कमेटी बनाइये या न्यायिक मैजिस्ट्रेट की बात करें या कोई और तरीका निकालिये। मेरा कहना यह है कि इन सब के बावजूद आतंकवाद के नाम पर इस देश में जो कुछ हो रहा है, उस पर नियंत्रण रखने के लिये, जो भी कानून हम बना रहे हैं, देखने में आया है कि उन कानूनों का निरंतर दुरुपयोग होता रहा है। मुझे आशंका है कि इस कानून का कहीं दुरुपयोग न हो, इसलिये इस कानून की एक विश्वसनीय संस्था के माध्यम से समीक्षा हो तो वह ज्यादा अच्छा रहेगा।

श्री गिरधारी लाल भार्गव (जयपुर) : सभापति महोदय, माननीय मंत्री जो विस्फोटक पदार्थ (संशोधन) विधेयक लाये हैं, मैं उसका समर्थन करने के लिये खड़ा हुआ हूँ। यह 1993 का पुराना एक्ट था। भारत में सक्रिय आतंकवादी संगठनों के कारण जो विस्फोटक स्थिति पैदा हो गई थी, उससे निपटने के लिये माननीय मंत्री जी यह विधेयक लाये हैं। इसे सख्त बनाया जाना आवश्यक था और इसलिये भी आवश्यक था कि देश में आतंकवादियों ने करोड़ों रुपये की सम्पत्ति नष्ट कर दी और लाखों लोग इस विस्फोटक पदार्थ के कारण मारे गये। आतंकवादियों की चुनौतियों को समाप्त करने के लिये ही यह कानून लाया गया है।

सभापति महोदय, इस बिल के खंड-3 में एक व्यक्ति को मृत्युदंड या आजीवन कारावास की सजा का प्रावधान किया गया है। मेरा कहना है कि देश में आज जो स्थिति पैदा हो गई है और आतंकवाद का जिस प्रकार से हौवा पैदा हो गया है, सारे विश्व से वह आतंकवाद खत्म हो, इसके लिये भारत सरकार ने एक कोशिश की है। इस प्रकार के विस्फोटक पदार्थ भारतवा में नहीं बनाये जाते बल्कि ये पाकिस्तान में बनते हैं।

पाकिस्तान की सीमा से राजस्थान और पंजाब में लाये जाते हैं और वहां से गुजरात और मुंबई आदि स्थानों पर यह सामग्री पहुंच रही है। यदि रिवाल्वर हो, उसकी गोलियां हों, उन्हें मेटल डिटेक्टर से पकड़ा जा सकता है। लेकिन अब कैमिकल विस्फोटक पदार्थ आ गये हैं। उन्हें किसी भी प्रकार से मेटल डिटेक्टर से मालूम करना कठिन बात है। इसलिए मुझे लगता है कि माननीय मंत्री जी इस बिल को यहां देरी से लाये हैं। लेकिन वर्तमान परिस्थितियों को देखते हुए, इस बिल को उन्होंने यहां रखने का प्रयास किया है।

सभापति महोदय, आपको याद होगा कि वर्ष 1991 में हमारे देश के भूतपूर्व प्रधान मंत्री श्री राजीव गांधी की हत्या आर.डी.एक्स. के कारण हुई। पंजाब के मुख्य मंत्री श्री बेअन्त सिंह का देहावसान इसी आर.डी.एक्स. के कारण हुआ। इस समय तक पांच हजार किलो आर.डी.एक्स का प्रयोग राजस्थान में हो चुका है जिससे लगभग दो हजार करोड़ रुपये से ज्यादा की प्रोपर्टी का नुकसान हो चुका है और लगभग 1400 व्यक्तियों की जानें इस कारण चली गई हैं। मुंबई में विस्फोट भी हुए वे इसी आर.डी.एक्स. के कारण हुए। इसका निर्माण पाकिस्तान में हो रहा है और पाकिस्तान इसे भारत और नेपाल में भेजता है। इसलिए इस बिल का लाना बहुत जरूरी है।

सभापति महोदय, आजकल एक और नई बीमारी एन्थ्रेक्स चली है। एन्थ्रेक्स एक प्रकार का पाउडर है, जिसे चिट्ठी वगैरह में डाल दिया जाता है, उसे एन्थ्रेक्स कहा जाता है। इस पाउडर का रंग सफेद है, लाल है, काला है या पीला है, यह सुगन्धित है या क्या है, इन सब बातों को सरकार अभी नहीं जान पाई है। मेरे कहने का मतलब है कि इस संबंध में भी सरकार को विचार करना चाहिए और एन्थ्रेक्स जैसी चीज को भी इस कानून के अन्तर्गत लाने का प्रयास माननीय मंत्री जी करें तो वास्तव में बहुत सुन्दर बात होगी, अन्यथा यह कानून अधूरा रहेगा। एयरपोर्ट हो, रेलवे स्टेशन हो या अन्य स्थान हों, बहुत सी चीजों की जानकारी तो मेटल डिटेक्टर कर लेंगे, लेकिन इन चीजों की जानकारी उनके द्वारा नहीं हो सकती है। मेरा निवेदन है कि राजस्थान, पंजाब और पूर्वोत्तर राज्यों के बार्डर एरियाज में जितनी चीजें पकड़ी जाती हैं, आखिरकार वे चीजें क्या हैं। उन चीजों का निर्यात भारतवा में न हो, इस संबंध में माननीय मंत्री जी को ध्यान देना पड़ेगा।

इस विधेयक के माध्यम से यह संशोधन लाने की कोशिश की गई है कि जिन लोगों के पास ये चीजें मिलेंगी, उनके खिलाफ कठोर कदम उठाये जायेंगे, उन्हें कड़ी से कड़ी सजा दी जायेगी। आपके इस बिल का मैं समर्थन करता हूँ और समर्थन करने के साथ-साथ यह आशा करता हूँ कि इस बिल में जो कमियां रह गई हैं, उन सारी कमियों को दूर करने की तरफ भी आप ध्यान देंगे। इसके साथ ही मैं इस बिल का हृदय से समर्थन करता हूँ। मैं आपको इसके लिए भी धन्यवाद दे रहा हूँ कि यह बिल उस समय लाया गया है जब कि देश में आतंकवाद फैला हुआ है।

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI CH. VIDYASAGAR RAO): Mr. Chairman Sir, all the hon. Members who participated in the debate, namely, Shri Adhir Chodhary, Prof. R.R. Pramanik, Shri Anadi Sahu, Dr. Raghuvansh Prasad Singh, Shri Sudip Bandyopadhyay, Shri Girdhari Lal Bhargava and Shri Ramji Lal Suman gave valuable suggestions.

In the recent past, there have been a number of instances involving explosive substances starting from Jammu and Kashmir to Tamil Nadu and extending upto the North-East also. In these bomb blasts, a number of persons have been killed, hundreds of people have been rendered crippled and property worth crores of rupees have been destroyed. The area of operations of most of the terrorists are not only in Jammu and Kashmir and the North-East but are also spread almost in all the States of the country. They are establishing contacts with international terrorists and are getting explosive substances. Besides this, the countries that are hostile to India are funding and supporting them and bringing these terrorists from across the border into this country. They are equipped with sophisticated equipment and explosive substances. In this escalated crime scenario, it has become all the more necessary to have a stringent legislation to keep pace with this escalated crime scenario in this country. The Act of 1908, which is already there, has no clear definition or distinction between conventional explosives and sophisticated lethal explosives. In the changed scenario, it has become all the more necessary to bring this legislation before this august House.

This Bill was discussed thoroughly on 18.2.2000 in Home Ministry's Standing Committee. They gave a number of suggestions. They were taken into consideration by the Government. With their suggestions, it was moved in the Rajya Sabha, and Rajya Sabha passed this Bill. Now, this has been brought before this House. All the hon. Members who spoke have given valuable suggestions. The hon. Member who spoke first wanted to know as to how much of RDX is transported to this country and used in the explosives. He wanted this information. I am having the information for two years, for 1999 and 2000. As far as Improvised Explosive Devices are concerned, they are being improved year after year. Earlier the terrorists and extremists -- whether they belong to North-East or Kashmir -- used to activate IEDs in the land mines, but now they are activating these IEDs with remote control.

In the year 1999, the RDX seized from different States, including Assam, Delhi, Gujarat, Haryana, Jammu and Kashmir, Punjab, Uttar Pradesh and West Bengal was 1,378.950 kgs. In the year 2000, the RDX seized was 1,958.860 kgs. In the year 2001, up to June, the RDX seized was 418.050 kgs. So, this much of RDX was seized in this country.

As far as bomb explosions are concerned, in the year 1999, the total number of explosions were 3022. Here, the

States include, Andhra Pradesh, Bihar, Uttar Pradesh, Gujarat, Jammu and Kashmir, Karnataka and the North-East. The highest number of explosions took place in Andhra Pradesh, the number being 1881.

As far as Improvised Explosive Devices are concerned, the total number of explosives used were 263. The highest number of Devices were used in Jammu and Kashmir, the number being 246.

In the year 2000, the total number of bomb explosions took place in this country were 2198. The highest number of explosions took place again in Andhra Pradesh, the number being 815.

As far as Improvised Explosive Devices are concerned, the total number of explosives used were 2,810 for killing civilians and soldiers. The highest number of Devices were used again in Jammu and Kashmir, the number being 2,584.

In the year 2001, up to June, the total number of bomb explosions were 485. The highest number of explosions took place in Uttar Pradesh, the number being 285.

The total number of bomb explosions that took place up to June were 235. The highest number of explosions took place again in Jammu and Kashmir, the number being 233.

Like this, bombs and Improvised Explosive Devices are being indiscriminately used in this country. The situation is also very tense. Hon. Member, Prof. R.R. Pramanik highlighted a number of points with regard to this Bill. He was also kind enough to give me a suggestion to think about the various explosives which he has mentioned in his speech. He has mentioned a number of explosive substances used by the Army, contractors and other people. He has also spoken about the atomic explosives. He raised a number of queries and suggested that if I do not have the information with me, I can get that from the officials present in the gallery or from the senior colleagues. Fortunately, most of the queries raised by the hon. Member, have already been answered by Shri Anadi Sahu who had been an excellent Police officer.

My humble submission to the hon. Member is that the answer is already there in the Bill itself. The main point raised by the hon. Member was that the definition of the Act is not sufficient. That was his main query. He was asking the Government to include many explosive substances. He has mentioned a number of explosive substances.

In this Act, the remote control devices causing explosion shall be classified as a special category of the Explosive Substances Act. A special category 2(a) has been substituted here only with a clear definition. After sending this Bill to the Standing Committee, this has been clearly defined. The suggestion was given by the Members of the Standing Committee and that has been accepted. The rest of the things are only re-casting of the words in respect of Sections 3, 4 and 5 with regard to enhancement of punishment. Instead of "life imprisonment", the word "rigorous" has been added. That is with regard to the re-casting of the wording. The important thing is only the classification of the Special Category of the Explosive Substances Act.

Coming to this, I would like to state that this has been done after taking the advice of the Standing Committee. There is an addition after the term "remote control devices causing explosion". The term "remote control devices causing explosion and any other substance and a combination thereof which the Central Government may, by notification in the Official Gazette specify for the purposes of this Act." So, this suggestion is sufficient. Today, we may be discussing about various explosive substances mentioned by the hon. Member and about Research and Development Explosive (RDX), Penta Erythritol Tetra Nitrate (PETN), High Melting Explosive (HMX), Trinitrotoluene (TNT) and Low Temperature Plastic Explosive and so on. Unfortunately, tomorrow, we may have to say about some more deterrent explosives. We do not know about them. So, this provision has been suggested to enable the Government or the investigating authority. Whatever points suggested by the hon. Member, those can be included if the Government feels it necessary. If the Government feels it, definitely, they can be included. I need not define it. I need not define all the explosive substances which are there throughout the country and throughout the world. So, whenever it is felt necessary, definitely it will be included. There is an enabling provision which has been suggested by the Standing Committee. That has been accepted by the Government. With this enabling provision, there is an answer available to the hon. Member.

With regard to punishment, the Sections have been clearly defined. In Clause 3, sub-clause (b), in Section (3) the word "rigorous imprisonment has been added. Previously, the word "imprisonment" was only there. After accepting the suggestion of the Committee, in Clause 3, sub-clause (b), the word "rigorous" has been added. So far as the definition is concerned, there is a clear distinction between the conventional and lethal deadly weapon and that has been described. In Section 4, sub-clause (a and b) it has been mentioned :

"â€the punishment for possessing explosives or conspiring to kill anybody or even attempting to killâ€ "

These distinctions have been clearly mentioned. Punishments have also been clearly mentioned in this provision.

When an act is committed, when a person thinks of committing the offence, that has been clearly distinguished and the wording has been re-cast accordingly. So, there is no ambiguity or contradiction. It is crystal clear so far as the Bill is concerned.

Regarding death penalty, we cannot discuss or we cannot remove it from the Indian Penal Code while discussing this particular Bill. For removing death penalty, that has to be decided in various forms. At this point of time, we cannot discuss about death penalty.

The other point was punishment given to the same person. It was asked that how can a person be prosecuted and punished for the same offence. It is not correct. These offences are clearly defined. Attempting to cause blasting, possessing explosives or even indulging in blasting have been clearly defined. If a person can be killed with a stick, a person can also be killed by a revolver. Definitely, the gravity of the offence changes. It is so because a person who kills another person with a revolver will be prosecuted. It is read with the Arms Act also. Like that, if a person is killed by the explosive, it is a different thing. A person is who is killed by another with a stick is a different thing. It is different from homicide. When a person is killed by the explosive, it is read with this Act. So, it is not that there are no two punishments. Definitely, this depends upon the gravity of the offence that takes place.

Most of the points mentioned by the hon. Member Shri Pramanik have been highlighted. The hon. Member was definitely mentioning about the dynamites which are being used by the contractors. Like that, all other things have been mentioned. So far as the other conventional explosives and the dynamites which are used by the contractors, by the Army are concerned, all these explosive substances are dealt with by a separate Act, the Act of 1884 and the rules framed thereunder.

So, they can be prosecuted. Permission can be given to use those explosives which do not come under this provision. Only those lethal and other explosives which cannot be detected, have been included.

आदरणीय संसद सदस्य ने एक्सप्लोसिब्ल में पटाखों से लेकर पोखरण तक को मंशन किया और एंथ्रेक्स के बारे में भी मंशन किया। एंथ्रेक्स एक्सप्लोसिव सब्सटेंस नहीं होता, इसलिए उसे इसमें इन्क्लूड करने का सवाल ही नहीं होता। पटाखों में जो एक्सप्लोसिव सब्सटेंस होता है, उसके लिए सैपरेट एक्ट के तहत परमीशन देते हैं, तब वे एक्सप्लोसिव यूज करते हैं। उसमें अगर कुछ विस्फोट होता है, उससे अगर कोई मर गया है तो एक्शन के साथ केसेज बुक करते हैं। इसका इस बिल से कोई ताल्लुक नहीं है, यह तो लीथल वैपंस के बारे में है। एंथ्रेक्स के बारे में तो मैंने बताया, therefore, I request Prof. Pramanik to withdraw those amendments. I have already mentioned that the Act is crystal clear. It has become all the more necessary in view of the escalated scenario of the country. Unless we pass this Bill, it would be very difficult to deal with the criminals and terrorists. Therefore, I would request all the hon. Members, through you, to kindly pass this Bill.

MR. CHAIRMAN : Now, the question is:

"That the Bill further to amend the Explosive Substances Act, 1908, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: *The House shall now take up clause by clause consideration of the Bill. ... (Interruptions)*

Clause 2 Substitution of New Sections for

Section 2 to 5 of Act 6 of 1908

MR. CHAIRMAN: Prof. Pramanik, are you moving your amendments?

PROF. R.R. PRAMANIK : Sir, I beg to move.

Page 1,-

for lines 9 to 13 substitute-

"(a) the Explosive substance shall be deemed to include (i) conventional, such as solid, gas or liquid material which, when triggered, will release great amount of heat and pressure by way of a very rapid self sustaining exothermic composition and (ii) non-conventional, such as nuclear explosions, critical and sub-critical,

(1)

Page 2 line 6,

after "substance"

insert "which may come in future to be included in special category explosive substances list" (2)

...(Interruptions) Sir, I want to speak.

MR. CHAIRMAN: The speech is not allowed at the time of moving the amendment. You have elaborately explained your point.

PROF. R.R. PRAMANIK : After the speech of the Minister, I want to seek some clarifications.

MR. CHAIRMAN: The Minister has given his reply. What more explanation is required, Prof. Pramanik?

PROF. R.R. PRAMANIK : I want some clarification.

MR. CHAIRMAN: What more explanation or clarification is required?

PROF. R.R. PRAMANIK : If you permit me to speak, I would like to ask only two or three questions.

MR. CHAIRMAN: Members are not allowed to speak on their amendments.

PROF. R.R. PRAMANIK : I would like to seek a clarification on the amendment.

MR. CHAIRMAN: You have spoken elaborately for half-an-hour.

PROF. R.R. PRAMANIK : Only after the speech of the Minister, I want to seek some clarifications from the Minister.

MR. CHAIRMAN: After when?

PROF. R.R. PRAMANIK : As he has spoken now, I want some explanation.

MR. CHAIRMAN: His reply is over.

PROF. R.R. PRAMANIK : I want some clarification and explanation. Please allow me. Only two minutes is sufficient.

MR. CHAIRMAN: Before the hon. Minister will move for passing of the Bill, you can ask two-three questions, not now.

PROF. R.R. PRAMANIK : Yes, Sir.

MR. CHAIRMAN: You would be allowed at the third stage of the Bill to speak.

PROF. R.R. PRAMANIK : Thank you, Sir.

MR. CHAIRMAN: I shall now put amendment Nos. 1 and 2 moved by Prof. R.R. Pramanik to the vote of the House.

The amendments were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 Punishment for causing explosion likely

To endanger life or property

PROF. R.R. PRAMANIK : I beg to move:

Page 2, line 9,

after "any person who"

insert "knowingly, willfully," (3)

Page 2, lines 12 and 13,

***omit* "with imprisonment for life, or" (4)**

Page 2, line 16,

After "endanger life"

insert "fatally" (5)

Page 2, line 16

after "or to cause"

insert "huge and" (6)

MR. CHAIRMAN: I shall now put amendment Nos. 3,4,5 and 6 moved by Prof. R.R. Pramanik to the vote of the House..

The amendments were put and negatived.

MR. CHAIRMAN : The question is:
That clause 3 stand part of the Bill."

The motion was adopted.
Clause 3 was added to the Bill.

Clause 4 Punishment for attempt

**To cause explosion or for making
Keeping explosive with intent
To endanger life or property**

MR. CHAIRMAN: Prof. Pramanik, are you moving amendment Nos. 7 and 8?

PROF. R.R. PRAMANIK : Sir, I am moving my amendments.

I beg to move:

Page 2, line 19,

after "any person who"

insert "knowingly, willfully," (7)

Page 2, lines 34 and 35, -

omit "with rigorous imprisonment for life, or" (8)

MR. CHAIRMAN: I shall now put amendment Nos. 7 and 8 moved by Prof. R.R. Pramanik to vote.

The amendments were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

**Clause 5 Punishment for making or possessing
Explosives under suspicious circumstances**

MR. CHAIRMAN: Prof. Pramanik, you have amendment Nos. 9, 10 and 11. Are you moving?

PROF. R.R. PRAMANIK : Sir, I am moving my amendments.

I beg to move:

Page 2, line 39,

after "give rise to a reasonable"

insert "and objective" (9)

Page 2, lines 40 to 42,

omit "unless he can show that he made it or had

it in his possession or under his control

for a lawful object" (10)

Page 2, lines 45 and 46

omit "with rigorous imprisonment for life, or" (11)

MR. CHAIRMAN: I shall now put amendment Nos. 9, 10 and 11 moved by Prof. R.R. Pramanik to vote.

The amendments were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 Amendment of Section 7

MR. CHAIRMAN: Prof. Pramanik, are you moving amendment No. 12?

PROF. R.R. PRAMANIK : Sir, I am moving my amendment.

I beg to move:

Page 2, line 49,

for "District Magistrate"

substitute "Judicial Magistrate of the first class" (12)

MR. CHAIRMAN: I shall now put amendment No. 12 moved by Prof. R.R. Pramanik to vote.

The amendment was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

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

SHRI CH. VIDYASAGAR RAO: Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: Motion moved:

"That the Bill be passed."

Now, Prof. R.R. Pramanik.

PROF. R.R. PRAMANIK : Mr. Chairman, Sir, I raised the issue of non-conventional explosives, that is, nuclear explosives, uranium-235 and plutonium. I mentioned about trash can bomb, atomic bomb and suitcase bomb. But no reply came from the Minister on that issue.

I also mentioned that 'explosive substance' has not been properly defined. Special category of explosive substance has also not been clearly defined. So, where is a difference between the two? I do not know about that. The Minister has not replied. While giving the reply, he has mentioned only about RDX, so many kilograms, so many deaths, properties lost worth so many crores of rupees only by RDX. No other explosive has been mentioned while mentioning about the loss of lives and loss of property but only RDX. So, he has included all these high explosives and military explosives, as mentioned by me. While giving the reply, only RDX has been mentioned.

Now, I wanted a clarification. Suppose there is an explosion but there are no loss of property. The punishment is life imprisonment. When there is an explosion by special category of explosives, the punishment is death penalty, that is, capital punishment. In connection with that, I said in this House that if a man is killed by a pipegun or a by a revolver, the punishment should be same.

The punishment should be the same. In his reply, he has mentioned that 'if a man is killed by a stick or if a man is killed by a revolver'. I would like to inform the hon. Minister that I never mentioned stick. I mentioned, 'if a man is killed by a pipe-gun or a revolver', whether the punishment will be different. The hon. Minister has mentioned stick. So, it is now wise. I want to have a clarification from the hon. Minister, why these two, 'Explosion, no death, no loss of property – imprisonment for life' and for the special category, 'no loss of life, no loss of property – death penalty'.

I would also like to have clarification from the hon. Minister on 'conventional and non-conventional'. 'Non-conventional' does not mean 'lethal'. Non-conventional means nuclear. The hon. Minister has never spoken any word on 'Trash Can Bomb'.

SHRI CH. VIDYASAGAR RAO: Sir, to compare the death penalty in the course of ordinary circumstances, within the Arms Act, I mentioned 'death by a stick.'

In my reply, I have already mentioned about various explosive substances. Hon. Member is having a wide knowledge and he is aware of a number of explosives which could not be contained in this reply or in the Bill also. I have not only mentioned Research and Development explosives but also Penta-erathrotal, tetra-nitrate, high-milting explosives...*(Interruptions)*

PROF. R.R. PRAMANIK : He has never mentioned about 'loss of life and loss of property' in this.

SHRI CH. VIDYASAGAR RAO: Let me complete first...*(Interruptions)*

MR. CHAIRMAN : Let him complete, please.

SHRI CH. VIDYASAGAR RAO: Sir, on the record it is there. I have mentioned about the number of explosives, which were mentioned in the Bill.

When this Bill was sent to the Standing Committee, all the hon. Members thoroughly discussed it. They have given a scope and provided for an enabling provision to the Government that whenever it finds new explosive

substances, it can by notification, include them. Whatever the explosive substances which the hon. Member is mentioning today, they can also be included if it is felt necessary.

Regarding the difference in punishment, if a person is killed by a conventional explosive and if a person is killed by RDX or by activating an improvised explosive device by a remote control, definitely the gravity or the intention of the offence is different. Already 'life imprisonment' is there...*(Interruptions)*

Let me complete, Sir.

MR. CHAIRMAN: Let him complete, please.

PROF. R.R. PRAMANIK : What will happen when there is an explosion, there is no loss of life, no loss of property and the person is not killed? Please go through the Bill.

SHRI CH. VIDYASAGAR RAO: Sir, by a remote control if an explosive device is activated, death may be 100 per cent and some more persons may become crippled. But over all the totality of the offence will be taken into consideration.

MR. CHAIRMAN: What will happen if a person is not killed?

SHRI CH. VIDYASAGAR RAO: It is different. It is clearly distinguished in Section 3 (a) & (b) and in Clause 4 (a) & (b). The punishment in the case of any explosives is ten years and shall also be liable to punishment. This is not for life but for only ten years...*(Interruptions)*

PROF. R.R. PRAMANIK : Sir, in both the cases, there is no loss of life, no loss of property!

SHRI CH. VIDYASAGAR RAO: Sir, it is very clear if a person is killed and if a person is found in possession of explosives or when there is an attempt with an intention to explode.' There is a difference.

MR. CHAIRMAN: If a person is in possession of explosive, he wants to know whether capital punishment is provided.

SHRI CH. VIDYASAGAR RAO: Sir, that will be decided by the court, we cannot sit over a judge and deliver our opinion here.

So far as the offences are concerned, even using the methodology of the stick, these have been clearly mentioned. Life imprisonment is already there. It is not a new thing. In the old Act, Life Imprisonment is there. It is rigorous and death penalty is added, there is nothing more. Therefore, all these clauses are very clear. It can never be misused. There is a lot of scope. The misuse point has already been discussed in the Standing Committee and after taking the opinion of the Standing Committee, these have been incorporated and these amendments have been carried out.

MR. CHAIRMAN : Prof. Pramanik, you have made your point and he has also replied to it.

PROF. R.R. PRAMANIK : Sir, I am sorry to mention that it has not been clarified by the Minister. I am reading that...*(Interruptions)*

SHRI CH. VIDYASAGAR RAO: Mr. Chairman, you were kind enough to question me as to the penalty. There is no death penalty if a person made a possession of it. ...*(Interruptions)*

PROF. R.R. PRAMANIK : I am not telling that. I read from clause 3:

"Any person who unlawfully and maliciously causes by –

a. any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with imprisonment for life, €

(b) any special category explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with death, €"

€(interruptions)

MR. CHAIRMAN: Please take your seat.

SHRI TRILOCHAN KANUNGO (JAGATSINGHPUR): The intention is important as the action. ...(*Interruptions*)

SHRI CH. VIDYASAGAR RAO: My humble submission is that the hon. Member is reading from clause 4 (a) and (b), where death penalty is not at all there. ...(*Interruptions*)

PROF. R.R. PRAMANIK : I have read out clause 3 and not clause 4. ...(*Interruptions*)

MR. CHAIRMAN: Please take your seat. Let him clarify.

PROF. R.R. PRAMANIK : Sir, he is misquoting me. I have read out clause 3 (a) and (b), and not clause 4. ...(*Interruptions*)

SHRI CH. VIDYASAGAR RAO: In clause 3, death penalty is mentioned. In clause 4, if a person keeps RDX or explosive substance, to attempt ...(*Interruptions*)

MR. CHAIRMAN: He has replied to it. ...(*Interruptions*)

SHRI CH. VIDYASAGAR RAO: Sir, I have clearly replied to the hon. Chairman's query that mere possession of RDX or the lethal explosive, there is no death penalty. That is not there in the Bill. ...(*Interruptions*)

MR. CHAIRMAN: Okay, he has clarified it.

PROF. R.R. PRAMANIK : Sir, it has not been replied. â€¦ (*Interruptions*)

MR. CHAIRMAN: The question is:

"That the Bill be passed. "

The motion was adopted.
