

**MOTION FOR EXTENSION OF TIME
FOR PRESENTATION OF THE RE-
PORT OF THE JOINT COMMITTEE
ON THE MENTAL HEALTH BILL,
1981**

DR. BAPU KALDATE (Maharashtra): Sir, I beg to move:

"That the time appointed for presentation of the Report of the Joint Committee of the Houses on the Mental Health Bill, 1981, be extended up to the first day of the last week of the Hundred and Thirty-sixth Session of the Rajya Sabha."

The question was put and the motion was adopted

**I. STATUTORY RESOLUTION DIS-
APPROVING THE TERRORIST
AND DISRUPTIVE ACTIVITIES
(PREVENTION) AMENDMENT
ORDINANCE, 1985**

AND

**II. THE TERRORIST AND DISRUPTIVE
ACTIVITIES (PREVENTION)
AMENDMENT BILL, 1985**

Contd.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Now we take up further consideration of the Statutory Resolution disapproving the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1985 and the Terrorist and Disruptive Activities (Prevention) Amendment Bill, 1985.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Mr Vice-Chairman, Sir, I rise to support this Bill which is to replace an Ordinance already promulgated. This is a Bill for extending the provisions of the Act already passed to the State of Jammu and Kashmir. It is a well-known fact that Jammu and Kashmir is a vulnerable area and it has also been formerly the field of activities by infiltrators so that giving attention to this problem is very essential. A

certain Member was under the misapprehension while speaking last time that political problems require political solutions as if in the case of Punjab we have not tried to bring in a political solution. But extremism is not a part and parcel of the same solution: it has to be dealt with by law separately. As you will find, there has been attempts on the life of Sant Longowal himself many a time during this period. So as the situation requires, it must be dealt with by some law. As it is here, so it should be in Jammu and Kashmir as well. This law contains many interesting aspects of the matter which were not acceptable to criminal jurisprudence so far, but which have become an evil necessity looking to the needs and requirements of the scope of terrorist activities. So many of the opinions expressed here are out of place because it provided for deterrent punishment for terrorist acts and terrorist activities. It provides for constitution of designated courts for speedy and expeditious trial of offences with the status of a Sessions Court, with a Judge appointed by the State Government with the concurrence of Chief Justice of that High Court. It also confers on the Central Government rule-making powers. Here I would point out that this extension of legislative powers by rule-making powers has been interpreted by many as if we have transferred the essential legislative business to the executive. The twin purpose of rule-making-powers is prevention of and coping with terrorists' acts and disruptive activities. Wide ranging powers have been provided by rule-making powers. This Act provides for a maximum penalty of death sentence and imprisonment for 3 years to life imprisonment looking to the various aspects of the matter. Since the power is only for a limited period, this is one of the justification why such a power if it is for a limited purpose of dealing with a situation which is dangerous and explosive and which is hitting at the very root of country's unity, is required.

Now all the places of insurgency have been the subject matter of this Act. It covers not only Punjab, but also Mizoram, Tripura, Nagaland and many parts of Northern India. Its purpose is not to curb any political movement because political movement predominantly differs from terrorism.

A political movement has a purpose and a cause whereas terrorism is only to create panic among the people without any purpose and without any political objective. Therefore, the Government has to deal with an extra-ordinary situation which has dangerous potentialities and support from outside forces.

The second salient feature of this Act which I want to point out is that the appellate jurisdiction has been given directly to the Supreme Court. Since it is both on law and fact, by itself it is a better safeguard and the time factor—that it takes too much time to deal with the situation—can be easily answered by this.

No doubt this law is a powerful weapon. I can't say that altogether it can't be misused if it is in the hands of the police. I don't think there are many complaints about the misuse, and the example that there are a lot of cases pending, in arrears, in Punjab cannot be assigned only to the misuse of this power but to the nature of the crimes and other situations.

Now, the third salient feature is the designation of Special Courts, which is necessitated by the crime situation. One provision which is often attacked is that the police has been given too sweeping a power to enter any place or premises to find out terrorists or disruptive forces, search and seizure, externment, control and regulation of persons and their conduct or movement in any area, interception or scrutiny of mail

or telecommunications, prevention of impersonation and forfeiture of property or equipment. This drastic power is necessitated because of the need and because of the type of people with whom we have to deal with under the law. This power can also be further extended under the Act by the rule-making power. It is very often attacked that we have made the rule-making power very comprehensive and I think the hon. Minister will surely satisfy on this because it has come from the other side.

One other special feature of the Bill is that the proceedings shall normally be conducted in *camera* in a protected place and the names and addresses of the witnesses shall be withheld, presumably to ensure their safety. Cases before designated courts will take precedence over all other cases. A designated court may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint even other than through a police report. This is one of the salient features which distinguishes it from the normal criminal Procedure Code.

Another feature which I want to point out is that no time limit is prescribed within which hearing of a case must be concluded.

Sir, these are a few of the criticisms that have been launched from the other side. It is also said that in Punjab the number of arrears of court cases are becoming more and more and so the very purpose of constituting Special Courts is going to be defeated and therefore something should be thought of to improve the working of the courts. If it is for a period of two years and there is an appellate jurisdiction and it will go to the Supreme Court both on law and facts, it must be concluded. I think the hon. Minister will take care of the situation or consti-

[Shri Bir Bhadra Pratap Singh]

tute an altogether separate court. Of course, it is said it was necessitated by the extraordinary situation. What is happening in ordinary criminal jurisprudence is that big criminals and gangsters are entering politics and they can get released. You cannot get witnesses against them. If witnesses are told beforehand, they are done away with or persuaded or forced to withdraw. So, these are the circumstances. And I think, in these circumstances, looking at this situation and looking to the times, extension is necessitated. Training camps are run right from Alabama to Pakistan, to Jammu and Kashmir. There are allegations of training camps having been held. Therefore, this Bill is warranted by the requirement of the situation.

With these words, I support the Bill.

श्री सुरज प्रसाद (बिहार) : महोदय, इस बिल के द्वारा सरकार दी टेरारिस्ट एण्ड डिस्रप्टिव एक्टिविटीज (प्रिवेंशन) अमेंडमेंट एक्ट को जम्मू और काश्मीर तक में भी लागू करना चाहती है। मैं इस बिल का विरोध करता हूँ और विरोध इसलिए करता हूँ कि सरकार व्यक्तिगत या एक समूह के आतंकवाद को राज्य आतंकवाद के द्वारा हल करना चाहती है। अगर व्यक्तिगत आतंकवाद का विरोध है कि वह निन्दनीय है, तो राजकीय आतंकवाद भी उसी तरह से निन्दनीय है। आज देश के काफी हिस्सों में आतंकवाद बढ़ता जा रहा है सरकार इसका हल निकालना चाहती है केवल जेलों के अन्दर बन्द कर देना, देखते ही गोली मार देना और इसी तरह से विभिन्न जरियों द्वारा आतंकवाद का हल निकालना चाहती है। यह आतंकवाद कुछ वर्ष पहले या कुछ साल पहले तक पंजाब में था और यह आतंकवाद आज उत्तर-पूर्व के राज्यों नागालैण्ड, मिजोरम, मनिपुर, त्रिपुरा में भी काफी प्रभाव रखता है और हम लोग अखबारों में इस बात को पढ़ते हैं कि वहाँ आतंकवाद सरकारी अफसरों पर

हमला करता है और कुछ का सफाया कर देना है, बेगुनाह लोग भी उसके द्वारा मारे जाते हैं। बिहार में नक्सलवादी आतंकवाद का प्रभाव भी हम लोगों को देखने को मिलता है। इस प्रकार देश में दो तरह के आतंकवाद की गंध हम लोगों को मिलती है और वह आतंकवाद या तो दक्षिण-पंथी हो सकता है या वाम-पंथी हो सकता है। चाहे आतंकवाद दक्षिण-पंथी हो या वाम-पंथी, दोनों का ही उद्देश्य देश के अन्दर हिंसा के जरिए राज्य पर कब्जा करना होता है और इन दोनों ही आतंकवादियों को बहुत बड़ा समर्थन माओज्यवादी शक्तियाँ दे मिल रही हैं।

महोदय, एक बात तो स्पष्ट है कि सरकार राजकीय आतंकवाद से इन दोनों आतंकवाद का मुकाबला नहीं कर सकती है। हम लोगों ने यह देखा है कि पंजाब की समस्या का हल महज इस कानून से नहीं निकला, इसका हल तभी निकला, जब सरकार ने बंदम उठाया राजनीतिक तौर पर इस आतंकवाद को समाप्त करने का उसी तरह से ही असम की समस्या का समाधान भी राजनीतिक तौर पर ही निकाला गया। इसलिए आतंकवाद का प्रधान कारण आर्थिक और राजनीतिक है और जब तक आर्थिक और राजनीतिक तौर पर इस समस्या का समाधान नहीं निकाला जाता, तब तक आतंकवाद का मुकाबला इस देश के अन्दर नहीं किया जा सकता।

महोदय, अब जम्मू और काश्मीर में, यहाँ यह सरकार इस कानून को ले जाना चाहती है, एक अयोग्य सरकार, कठपुतली सरकार जो वहाँ है, वह वहाँ अलगाववादी शक्तियों को समर्थन दे रही है इसलिए उस सरकार से यह उम्मीद की जाय कि वह आतंकवाद का सामना करेगी, यह बिल्कुल गलत है और यह मानना कि वह सरकार आतंकवाद पर काबू पाएगी, महज कल्पना मात्र हो सकता है। इसलिए मैं सरकार से कहना चाहूँगा कि जम्मू और काश्मीर में जो आतंकवादी शक्तियाँ जोर पकड़ रही हैं, अगर उनको रोकना है, उनको कब्जे में रखना है, उनको नियंत्रित करना है, तो रास्ता एक ही है कि जम्मू और काश्मीर में जो अभी

सरकार है, उसको आप अपदस्थ कीजिए। वहां पर राष्ट्रपति का शासन लागू किया जाय और चुनाव करा कर एक जनतांत्रिक हुकूमत की स्थापना की जाय ताकि सरकार सही मायनों में वहां पर आतंकवाद का मुकाबला कर सके।

इन शब्दों के साथ मैं इस कानून का जोरदार समर्थन करता हूँ।

SHRI KAPIL VERMA (Uttar Pradesh): Mr. Vice-Chairman, Sir, I rise to support wholeheartedly the Terrorist and Disruptive Activities (Preventive) Amendment Ordinance and the Bill replacing it.

Both Punjab and Jammu and Kashmir share a connected border with Pakistan and as we all know Pakistan is actively assisting the extremists. Extremists have been trained in camps specially set up in Pakistan and they have been crossing over into Jammu and Kashmir through various routes and into Punjab, some times accompanied by disguised Pakistanis.

Not long ago, the extremists had Grumat training camps run for them in Jammu and Kashmir, when Dr. Farooq Abdullah was the Chief Minister. Pro-Pak elements have also been active with Moulvi Farooq openly preaching secession and indulging in violent anti-Indian and pro-Pak activities. We hear disturbing reports about it almost every day. The latest is hoisting of Pakistan flag in Srinagar on August, 14 Pakistan's independence day. We have also heard about explosion in the Sealdan Express at a station.

What I want to emphasise is that even if police action is effective in Punjab against the extremists, it will lose its force, if it is not implemented in Jammu and Kashmir. We should also remember the fact that Jammu and Kashmir is not just one of the States of India like Uttar Pradesh, Madhya Pradesh or Bihar. It is a very sensitive State. It is as sensitive as the North-Eastern regions/States of India.

Sir, there is another important point which I want to stress. There is large scale gun running across the border. All kinds of arms are coming from Pakistan. There is illicit gun running also. There are clandestine deals and anti-social elements are also participating in it. Besides the Pakistan's Government is actively helping in sending arms not only to Punjab extremists but to the pro-Pak elements in Kashmir. As we all know there are various routes from Jammu and Kashmir to Pakistan. In Punjab also there is a very big border with Pakistan. Unless this kind of deterrent law is enacted, the flow of arms and smuggling of arms cannot be checked.

It has to be a special law as Jammu and Kashmir has a special status conferred on it and we respect it. This Government has not violated the spirit of Article 370 of the Constitution. As far as unity and integrity of India is concerned, there can be no compromise on it. So, when this Act is extended to Jammu and Kashmir, I think, it is done in the best interest of India, its security and defence.

No doubt, the situation has eased in Punjab because of accord reached between our beloved Prime Minister and the Akali leader Sant Longowal. Shri Rajiv Gandhi has had another feather in his cap by finding a solution on Assam also. The Assam elections will be held very soon. The Assembly has been dissolved. As we have read in the newspapers the Punjab elections will also be held soon in September. We only hope that the elections in Punjab will be peaceful. I think all parties will cooperate in the peaceful conduct of the elections so that the spirit of the accord is maintained, forgetting the past. We should fix our gaze only on future. As our Leader has said this election campaign has to be aimed at on unity and integrity of India and the progress and development of Punjab. I am sure, all sides of the House will support this particular policy of

[Shri Kapil Dev Verma]

the Prime Minister. Sir, let us also hope that the Prime Minister will succeed in his efforts of mediation to bring about a solution to the Tamil problem in Ceylon. Just now, we had some discussion on it and there are some elements in Ceylon who are trying to sabotage the efforts by our Prime Minister in hammering out a solution. Sir, we are hoping that with his sagacity and statesmanship, Shri Rajiv Gandhi will be able to produce a solution to that problem also.

Sir, I have followed the debate on the legislation in this House with great interest but I am surprised to hear Shri K. Mohanan of CPM, who said I quote:

“the answer to political terrorism is political settlement on political issues”.

What has happened, Sir, I want to say in Punjab is not political terrorism but murder, rape, gangsterism, goondaism, loot and dacoity. These extremists are nothing but a set of criminals indulging in anti-national acts and anti-social acts for personal ends, not political. Sir, what do the people want? They want peace in the State and can we have talks with these extremists? What kind of settlement we can have with them? Their demand is Khalistan. Are you prepared to give Khalistan to them? Then if Shri Mohanan is referring to terrorists in Jammu and Kashmir, then those extremists are pro-Pak elements. They want the accession of Jammu and Kashmir to Pakistan. Can we have any talks with them on that? Then where is the question of political settlement? I venture to say that they are not political elements at all. They are a set of criminals or anti-social or anti-national forces. So, there cannot be any talks with them as they are not political. We had political talks with Sant Longowal, who was conducting a political battle with us, a non-violent battle. We have found a solution and we

have been trying to restore peace. That settlement is a political settlement and they are moderates. So, we have tried to satisfy their demands—the just demands and the legitimate demands, whatever they were and we only hope that now with the accord being reached, elections will be peaceful in Punjab and development of Punjab will be ensured.

I was also surprised to hear a friend of mine, Mr. Ashwani Kumar of B.J.P., he has made contradictory statements. On the one hand, he demanding, in fact his party has been demanding removal of Article 320 of the Constitution and strong measures to maintain the unity of India and on the other hand, he is opposing the extension of the Ordinance to that State. I contend that this is certainly contradictory. He is talking of unity and integrity of India but he is opposing the extension of Ordinance. The objective of the Ordinance is to maintain the unity and integrity of India by crushing the anti national forces of Jammu and Kashmir. I am sure, he also wants it. I am not questioning anybody's patriotism, any group's patriotism, in this House. The presumption is that all parties are patriotic and I also believe in it. But this Ordinance was very necessary as we all know because without it, we cannot deal with those forces. Also the Opposition has expressed apprehensions of misuse of the powers taken under this Ordinance and under this Act. Sir, I want to point out that under the original law, under the original Act, passed by this House, certain designated courts were to be set up but only in nine States in India (*Time bell rings*) 18 courts have been set up. The others did not care to set up such courts. And only 33 cases in all have been registered. Is it misuse? I want to ask. Is it misuse? Then they were talking of the NSA. Has the Government of India ordered a single arrest under the NSA? No, certainly not. Can the Opposition cite one case? Wherever NSA cases

were registered in the various States of India, they were reviewed. There is a system of review by a special board presided over by a High Court judge or a Supreme Court judge. They review the cases and they often order release. In my State of U.P. a number of Mafia leaders have been elected to the State Assembly and a number of them have been elected as Block Pramukhs. And they have been appealing to the courts for their release.

SHRI SATYA PRAKASH MALA-VIYA (Uttar Pradesh): They have been ordered to be released.

SHRI KAPIL VERMA: Yes. So, how is it misuse of law? I want to know. And misuse by whom? So, the question is that to deal with lawless elements, certain things have to be done.

With these words, I support this measure. This measure is very necessary for the unity and integrity of India. Jammu and Kashmir is a very special case and I am sure all parties and all Members of the House will join me in wishing that all the anti-national forces in Jammu and Kashmir are dealt with firmly. Most of us have gone there, sometime and we know what are the real conditions there. We know the sentiments of the people there. That is why article 370 is not being touched. But as the same time, there are elements which have to be dealt with strongly, and they cannot be dealt with by the ordinary law. They have to be dealt with by extraordinary law because this is an extraordinary situation. For the unity and integrity of India, I am sure the whole House will support the measure because if India does not exist, who exists? The unity and integrity of India is the most important thing for us and it must be maintained. And this Bill is aimed at that. Therefore, I support it most wholeheartedly.

श्री सत्य प्रकाश मालवीय : मान्यवर,
 आतंकवादी और विध्वंसकारी क्रियाकलाप

(निवारण) संशोधन विधेयक, 1985 का मैं विरोध करते के लिए खड़ा हुआ हूँ और उसका कारण यह है कि इस विधेयक से निरंकुश अधिकार सरकार को दिये जा रहे हैं। जहाँ निरंकुश अधिकार दिया जाता है, हमेशा उसका दुरुपयोग होने की आशंका रहती है। 26 जनवरी, 1950 से लेकर 31 दिसम्बर, 1984 तक 348 अध्यादेश केन्द्र सरकार द्वारा जारी किए जा चुके हैं। अध्यादेश के जरिए कानून बनाने या सरकार चलाना संवैधानिक तो हो सकता है, लेकिन लोकतांत्रिक कभी नहीं हो सकता। ब्रिटिश राज में जब जब अध्यादेश लाए जाते थे, राष्ट्रपति महात्मा गांधी उसको अध्यादेश का राज या आर्डिनेंस का राज कहते थे। वर्तमान जो अध्यादेश है, यह 5 जून, 1985 को लाया गया था और यह जो अध्यादेश की परिपाटी है यह स्वस्थ परिपाटी नहीं है। लोक सभा के अध्यक्षों और राज्य सभा के सभापतियों ने भी अनेक बार यह व्यवस्था दी है कि जब तक बहुत आवश्यक या अपरिहार्य न हो, तब तक अध्यादेश नहीं किया जाना चाहिए। 5 जून, 1985 से पहले भी लोक सभा और राज्य सभा का सत्र चल रहा था। वर्तमान सत्र भी बुलाया जाने वाला था। इसलिए अध्यादेश न लाकर सीधे विधेयक ही संसद में लाया जाना चाहिए था।

श्रीमन्, गृह राज्य मंत्री श्री आरिफ मोहम्मद साहब, जिन्होंने इस विधेयक को प्रस्तुत किया है, सभाचारपत्रों में मैं पढ़ता हूँ कि जम्मू-काश्मीर राज्य को देखने की भी जिम्मेदारी उनकी है जिस पार्टी से उनका संबंध है। जम्मू काश्मीर में इस समय जो सरकार है वह जनता द्वारा चुनी हुई सरकार नहीं है। यहाँ तक कि वहाँ के जो मुख्य मंत्री हैं, वे भी जनता के प्रतिनिधि नहीं हैं और 13-13 ऐसे मंत्री हैं जो कि दल बदलू हैं और दल बदल का उन्होंने वहाँ पर सरकार बनाई है। पिछली 1 PM जनवरी मास में इसी संसद में एक दल-बदल विधेयक पारित किया गया था और उस दल-बदल विधेयक की मन्शा यह थी कि कि जो दल-बदलुओं की सरकार है उनको सत्ताछूट पार्टी समर्थन न दें। इसलिये

[श्री सत्य प्रकाश मालवीय]

मेरी मांग है। कि वहाँ की जो वर्तमान विधान सभा है उसको भंग किया जाए। थोड़े दिन के लिए वहाँ पर राज्यपाल का शासन लागू किया जाए और जनता द्वारा चुनी हुई सरकार लोकप्रिय सरकार बनाने का मौका दिया जाए क्योंकि आतंकवादी उग्रवादी के हम सब विरोधी हैं। लेकिन आतंकवाद और उग्रवाद को रोकने में केवल जनता द्वारा चुनी हुई सरकार ही सफल हो सकती है।

श्री गुलाम रसूल कार (नाम निर्देशित) : इसमें क्या ताल्लुक है।

श्री सत्य प्रकाश मालवीय : यह सभापति जी तय करेंगे।

श्री गुलाम रसूल कार : बिल से इसका कोई ताल्लुक नहीं है।

श्री सत्य प्रकाश मालवीय : बिल से ताल्लुक है। इस विधेयक के जरिये इस कानून को जम्मू और काश्मीर में भी लागू किया जा रहा है। जैसाकि मैंने शुरु में कहा ... (व्यवधान) मैं आपकी सुरक्षा चाहता हूँ।

उपसभाध्यक्ष (श्री आर० रामःष्णन) : आप भाषण करिये।

श्री गुलाम रसूल कार : वहाँ गवर्नर रुल लागू होगा तो क्या वहाँ यह बिल नहीं लागू हो सकता।

उपसभाध्यक्ष (श्री आर० रामःष्णन) : आपको भाँ मीका मिलेगा बोलने का।

श्री सत्य प्रकाश मालवीय : इस मुल्क में अपराध हो जाते हैं और कोई भी कानून उपयोग सिद्ध नहीं होता। कोई भी कानून तभी उपयोग सिद्ध होगा जब अपराधी को पकड़ा जा सके। यहाँ पर अपराध होते जाते हैं, बड़े-बड़े अपराध हो जाते हैं लेकिन अपराधी पकड़ा नहीं जाता। पिछले नहाने की 31 तारीख को नौजवान संसद श्री ललित माकन और उनकी पत्नी श्रीमती गीताजली माकन की

हत्या हो गई। यह भी जानकारों में है कि वहाँ से सुरक्षा गार्ड भी हटा लें गई थीं। अब 10-20 दिन होने को हैं अभी तक अपराधी पकड़े नहीं गये। कोई भी कानून ले ले अगर उस कानून को लागू करके के यदि आप अपराधी को पकड़ नहीं पायेंगे तो कानून चाहे आप का मखन क्यों न हो या नरम क्यों न हो, उसका कोई लाभ इस सरकार को इस ध्वेय के पूर्ति के लिये नहीं होने वाला है।

24 जुलाई को पंजाब के बारे में एक समझौता हुआ। जैसा की घोषणा हुई है 22 सितम्बर, को पंजाब में लोक सभा और विधान सभा के चुनाव होने जा रहे हैं। अब चूँकि वहाँ पर चुनाव होने जा रहे हैं साथ-साथ पंजाब समझौता हो गया है इसलिये बदली हुई परिस्थिति में इस विधेयक की कोई आवश्यकता नहीं है। हमें यह आशा करनी चाहिये कि पंजाब के चुनाव में असम नहीं दोहराया जायेगा क्योंकि असम में जो चुनाव हुआ बन्दूक की नौक पर हुआ। पंजाब के चुनाव लोकतांत्रिक तरीके से और शांतिमय तरीके से होंगे। इसी आशा के तत्पर मैं विधेयक का विरोध करता हूँ।

SHRI M. P. KAUSHIK (Haryana): Mr. Vice-Chairman, I rise to support the Terrorist and Disruptive Activities (Prevention) Amendment Bill which is to be extended to the State of Jammu and Kashmir. This Bill had been thoroughly discussed earlier in both the Houses and had been passed. The present amendment is only to extend it to the State of Jammu and Kashmir. On simple basic principles of the form of Government democracy is the most fragile and the most sturdy form of Government in the present days. Under such a set-up the Bill is a bit harsh, there is no doubt. Democracy desires that the dignity of man should prevail at all costs, but not of an individual, of the whole population. Mr. X has as good rights in a democracy as Mr. Y and Mr. Z. But Mr. X, per chance, due to various reasons, gets pervert; the

reasons may be purely personal. But his behaviour becomes detrimental to the country. He may be instigated, he may be manoeuvred, to act in that manner by outside forces and all sorts of fanatical ideas the people generally acquire to destabilize a stable government or a stable society. In such cases, I would like to submit humbly what the duties of the State are. Is the State going to yield to such barbarous acts of a few who are perverts and who believe in the destabilization of these things? I am sure none in this House can say that such a proposition is acceptable to any one of us. Under these circumstances, Sir, if the Government comes to this House to acquire some additional powers to contain people who are anti-social, people who are barbarous in their approach towards anything in life and people who are guided or goaded by rules which are beyond the concept of a democratic form of government, I think such harsh Acts should be passed and should be taken in their stride and accepted as a normal thing.

Sir, generally we believe in non-violence. But non-violence does not preach that we should succumb to the terrorist acts or barbarous acts or onslaughts by a few who want to destabilize the entire society in this country. I will give you a few examples. It is well known that in big cities, particularly those with big industrial units, goondaism prevails to a very great extent. Have we ever thought about the reasons for this? A person gets perverted with obnoxious ideas about society and others and he is allowed to perpetuate his attitude towards the other people simply because no one dares to come forward openly to decry his acts or go against him in the witness box and, therefore, there is no conviction and invariably, in the normal course under the present system of criminal proceedings, 98 per cent of the cases fail and that is why we have got this type of anti-social troubles in almost all the cities. (Time

bell rings). If that is the case in big cities within the country, what will be the fate of our borders where extraneous powers are ever ready to destabilize the country and disturb the peace in the country? Well, Sir, it is an open secret now that not only smuggling of arms into our country is taking place, but also infiltration of men is taking place, of men who are trained in subversive activities, and this is taking place from the Pakistan side of the border. Now, what is the function of these persons who infiltrate into our country and what is the function of the arms which are smuggled into India? Now, persons come inside our country, fully trained in guerrilla warfare, to destabilise the society and to destabilize the whole fabric of the society. Now, Sir, what are their aims? Their aim is to simply weaken the country, to destroy the present form of government. What is the duty of the State at the present juncture? In these circumstances, what is the duty of the State? I think it was in the fitness of things that this Ordinance was promulgated on the 5th June 1985 to extend the Act to the State of Jammu and Kashmir. There is a hilly borderline there and it is a very, very fertile ground for the infiltrators and there is a very active neighbour who wants that there should be destabilization in this country.

Sir, I think that the extension of this Act to the State of Jammu and Kashmir is perfectly in order and I would request the Government to step, with all the force at its command, this infiltration by the destabilizers or disruptionists or the terrorists and also the smuggling of arms into our country. So is the case with our Eastern borders I think it is the paramount duty of the State to protect the majority of our population who live in peace.

Some people say that such measures are draconian. But I would call them legitimate measures, and these

[Shri M. P. Kaushik]

should be enforced with a rigid hand.
 (Time Bell rings)

With these few words, I fully support the Terrorist and Disruptive Activities (Prevention) Amendment Bill. Thank you.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Shri G. M. Shawl.

SHRI GHULAM MOHI-UD-DIN SHAWL (Jammu and Kashmir): Mr. Vice-Chairman, Sir, at the outset I want to go on record that we condemn terrorism and disruptive activities in whatever part of the country and in whatever form. And I hope I will oblige my friends sitting on the treasury benches when I make my submissions because our point is, at the very outset, that we do not support this method that whenever a Parliament session is near about, Ordinances should be issued. Moreover in general we do not support that there should be Ordinances and the Parliament be asked to rubber-stamp these Bills and only a discussion for some minutes on the Ordinance takes place. So, when the Parliament had to meet on the 23rd of July there was no immediate necessity of issuing the Ordinance and getting the concurrence from a puppet government on the 4th of June 1985. That brings me to Article 370. Sir, we have seen ever since this Article was incorporated in the Constitution of India, the Central Government has tried to make encroachments and dents in it and make it ineffective. On that score I protest and do not support any further encroachments in article 370. In fact, when we see article 370 (1) (c), the word 'concurrence' is there, that is to say, the Government of that State shall give its concurrence. But I fail to understand what was the impending necessity to dismiss a popular, duly elected and strong Government of Dr. Farooq Abdullah and bring in a puppet Government through defections? Defections were engineered—in fact, financed—by

the Congress in Kashmir, and a split was caused in the National Conference. We have seen this on the 2nd of July 1985. This is merely a repetition of 9th August 1953 when the illustrious leader of Kashmir, Sheikh Abdullah, was removed from power and a puppet Government was installed there. The recourse may be taken to the fact that the words are 'the Government of that State' and 'its concurrence'. But article 370, No 1, comes at the end of the Constitution of India. Till that stage, the Legislatures in various States are formed. In fact, the founding fathers of our Constitution must be turning in their graves when they see that this concurrence was got from a puppet Government, which was never envisaged by them, they had thought of a legally constituted, popular Government duly elected by the people of that State which is in a position to give concurrence required under Article 370. That apart, mark what and how that split was caused on 2nd of July, 1984. Apart from cash inducements, all the defectors in that Party were made Cabinet Ministers, full-rank Ministers in that Government.

श्री कल्पनाथ राय (उत्तर प्रदेश) :
 किस पार्टी की सरकार में वे मन्त्री बने हैं ?

SHRI GHULAM MOHI-UD-DIN SHAWL: The State of Jammu and Kashmir. (Interruptions) I am coming to the point of Mr. Kalpnath Rai. But I want to bring it on record that as far as that Government is concerned, that must be dismissed. (Interruptions) Don't provoke me.

श्री कल्पनाथ राय : किस पार्टी की सरकार है, नेशनल काँग्रेस की सरकार है। (ब्यवधान)

SHRI GHULAM MOHI-UD-DIN SHAWL: Then, after the 2nd of July. Sir...

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): He is not getting provoked in spite of what you say.

SHRI GHULAM MOHI-UD-DIN SHAWL: I enjoyed when you spoke. Please enjoy what I say.

श्री कल्पनाथ राय : उपसभाध्यक्ष महोदय, किस पार्टी की सरकार वहाँ है ? जम्मू काश्मीर में किस पार्टी की सरकार इस समय है ?

SHRI GHULAM MOHI-UD-DIN SHAWL: Yes, the defectors' Government was installed. For your information, a defectors' Government, a puppet Government which has no representative capacity has no right to rule the State. Then, Sir, a tale of woe and misery followed from the 2nd of July so much so that the Chief Minister got the nick-name of Gul Shah curfew. Sir, curfew was imposed off and on. Even on the 13th July, 1984, on the Martyr's Day, the curfew was imposed. For the First time in 54 years, on that Martyrs' Day we had a curfew in the State of Jammu and Kashmir. In fact there is an innovation—my hon. friend will appreciate it—on the part of Gul Shah that he would impose curfew without any formal declaration. That was another part of it. Anyway, Sir, then followed the corruption. Corruption is rampant there and there is no end to it. There is lawlessness. Sir, every section of the society cries against this corruption. For your information, the head of the All Jammu and Kashmir Pandit Conference, Shri Tikalal Tapiloo, too has said that there is corruption and mismanagement and maladministration in Jammu and Kashmir State on the part of the Government and it must be dismissed. They too are crying hoarse. All the other parties—the Janata Party, the BJP, the Lok Dal, Mr. Bhim Singh's Panther Party, the CPI and the CPM, in Jammu Awami Action Committee and Peoples Party in Kashmir are all demanding the dismissal of this Government which has no right to be there. You will be surprised, Sir, that as far as corruption is concerned, our Government had constituted a Commission of Inquiry against Mr. D. D. Thakur, the Deputy

Chief Minister as to how on earth he has amassed so much of wealth building posh hotels and cinemas. Out of proportion to his ostensible means of income. And there was a Commission of Inquiry headed by Mr. Justice Kotwal. The first thing this Government, this puppet Government did was to undo it. And they dismissed Commission of Inquiry because it had to enquire as to how he amassed that much wealth against his ostensible means of income.

श्री कल्पनाथ राय : किस पार्टी के राज्य में जम्मू काश्मीर में ज्यादा भ्रष्टाचार हुआ ?

SHRI GHULAM MOHI-UD-DIN SHAWL: That does not mean, it should be there now. Kindly do not provoke me.

श्री गुलाम रसूल कार : मिस्टर-ठाकुर किस उमाने में मिनिस्टर थे ?

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY AND COMPANY AFFAIRS AND IN THE MINISTRY OF HOME AFFAIRS (SHRI ARIF MOHD. KHAN): When he amassed wealth?

SHRI GHULAM MOHI-UD-DIN SHAWL: I admit that some persons were given mandate who did not deserve it, and they proved it by their omissions and commissions. Anyway, that is there.

श्री कल्पनाथ राय : ग्राप कंक्रीट बोलिये ।

SHRI GHULAM MOHI-UD-DIN SHAWL: There is tall talk of democracy. But in Kashmir all the duly-elected bodies, the civic bodies, the panchayats, the town committees and all others were superseded, and persons coming from one Party, and Gul Shah's party—I should not name that one party; you know better—got nominated on 50:50 basis to these panchayats and civic bodies.

श्री कल्पनाथ राय : नेशनल कॉन्फ्रेंस में बंटवारा हुआ है, दो बार स्पिलिट हुआ है ।

SHRI GHULAM MOHI-UD-DIN SHAWL: Sir, he has spoken already. My friend has already spoken. If he again wants to make any amendments to his speech that is a separate issue and he is free to do it. I am happy that he knows it and he was responding to the qualms of conscience when he was speaking the other day and on the floor of the House and saying that the Congress is supporting a defectors and corrupt Government of G. M. Shah and that is wrong.

Now, Sir, these civic bodies have been done away with. Even the recruitment boards which were there to enlist the recruits for the Government services and other services, they have been abolished and nominated persons have been installed there. The district boards which were entrusted with the job of development in the districts have been abolished and their own kith and kin and partymen have been nominated to those bodies. The other day in special mention I mentioned that qualified persons like the ones holding M. A., M. Sc. and Ph. D. degrees, were overlooked and in their place 8th, 9th and 10th class students were appointed on an *ad hoc* basis to hoodwink the public opinion as teachers. I had asked in that special mention as to what would be the fate of our future generations when such persons are there to teach our children? Now, Sir, that is one part of it.

Now, coming to repression, oppression and suppression, ever since that 22nd July, score of people were killed by State police and paramilitary forces and then hundreds of people are lying in jails without any formal charges, on the false plea that they are creating some trouble. Basically they are for restoration of democracy. This is our legitimate right and we were agitating for that. During this summer in such scorching heat our workers were placed in Jammu jails and without any water to drink and other amenities and

there was a hue and cry. You will be surprised to know that the Raj Bhavan, where that conspiracy was hatched, this time its doors are open for all because people do not go to complain before any Minister; they go directly and submit their memorandum, petition, etc. to the Governor because nobody is going to listen to them but only the Governor. And the Governor himself is having trouble with the present regime there because he has expressed and it is well-known, it has come in the press, that he wants the present Government to be dismissed and the State Assembly to be dissolved and fresh elections be held in the State of Jammu and Kashmir.

Sir, I was submitting that as far as this article 370 is concerned, any encroachment in it we are not going to tolerate. Secondly, as far as this concurrence is concerned, my friend may say that it is legally right, but, legality apart it requires propriety and decency. The puppet Government lacked both of them. For getting this concurrence was Farooq's Government dismissed for that purpose because you wanted that there should be concurrence on this legislation, for this encroachment on article 370 and you thought that Farooq will not oblige and therefore Gul Shah should be brought in. Gul Shah whatever he does, you O. K. it. Dinner politics will not help democracy. Mind you, we stand for our right and this is our constitutional right. [Time bell rings).

Sir, we have seen that rampant corruption is visible in all Departments. The State Government is anxious to undo the goal of socialistic pattern of society for which we crave for in Jammu and Kashmir. But the Government there is sell out the Tourism department assets. The assets in the Jammu and Kashmir Tourism Development Corporation and the Jammu and Kashmir Tourist Department, they have huge assets in the form of huts, bungalows and

other things in Pahalgam, Sonamarg, Gulmarg and other places are being sold to private concerns. My friends, those who have visited Kashmir, can see that these huts and bungalows are located in posh colonies. But the Government of Jammu and Kashmir is deeming it proper, as it is in the press, to oblige a private hotel concern and sell out these assets to that concern. Mr. Sampat Prakash, President of State Low-paid Employees Federation says that the sub-committee of the Coordination Committee for tourism development wanted to oblige Taj Group of hotels allegedly because a monopoly company has helped a son of a senior NCK—that means Gul Shah Party—with some licences... (Interruptions).

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Please talk about terrorism. Certain amount of latitude is there to discuss related matters; but please say on terrorism now.

SHRI GHULAM MOHI-UD-DIN SHAWL: In the lobby, Sir, people agree with me but on the floor of the House, the sword of discipline is on their head; I can understand their difficulty.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Don't expose inner secrets here.

SHRI GHULAM MOHI-UD-DIN SHAWL: This is open secret that there is a thaw in the atmosphere; we saw a gleam and a ray of hope, a silver lining on the dark horizon when Mr. Rajiv Gandhi, the Prime Minister, and Dr. Farooq Abdullah our leader met the other day; hopes are there; genuine hopes, and so it will not be idle to mention anything about what the Members of Parliament feel and say.

Sir, I repeat about corruption. False bills are prepared for roads which are already there; wells are already there; tubewells etc. and even the pumps are there but bills are prepared because they have to please somebody belonging to their party.

And I shall mention here one thing the other side that the odium which for the information of the friends on is attributed to Gul Shah—as Gul Shah has put it—is shared by you. This time, all the miasma is so glaring in Kashmir; is attributed to Congress. The Government says, from top to bottom they have coordination committees, coordination between NCK and Congress on 50:50 basis. Gul Shah says: If I am corrupt, the Congress shares this corruption. I want you, Mr. Clean, to clean yourself now. This is the time; throw away this unwanted child because you are sharing it and your prestige, your image, your stock is going down and you have to realise that aspect. Sir, three conventions were held by Congress there at Kullar, at Aharbad and at Verinag. Even the hon. Ministers from the Centre attended those conventions and feelings were expressed, sentiments and opinions were expressed openly that Government of Jammu and Kashmir is corrupt. In addition, there is a bad administration; there is indoctrination of bureaucracy, and therefore, Sir, they must withdraw their support to this Government. What the Congress doing is not good to our State. So, in the light of that opinion, none of you can say that the people of Kashmir or Congress is really in favour of that Government there. But the puppet Government are not bothered. These three conventions as reported in the press were attended by our hon. Ministers. My friend, the Minister may say that he was not there, although he is always there. But I should not mention the name.

The last aspect is, excuse me for using the word, not mad but 'semi-mad'. If we put a knife in the hands of a semi-mad person, there is very apprehension; and there is every likelihood that this Act will be used against those who are agitating for restoration of democracy. I say with due deference; do not give this draconian law to a person who has used

[Shri Gulam Mohi-Ud-Din Shawi]
even ordinary laws for suppressing democratic movements there. Sir, ... (Interruptions)

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Please conclude now.

SHRI GULAM MOHI-UD-DIN SHAWL: If there is any query, I am prepared to meet it.

श्री गुलाम रसूल कार: घंटी बज गयी ।

श्री गुलाम मोहिउद्दीन शाल: घंटी बज गयी आप की, हमारी नहीं बजी है ।

Sir, although, we condemn terrorism and disruptive activities, I am constrained to oppose this Bill. Till democracy is restored in the State of Jammu and Kashmir and elections are held, no such law should be passed by Parliament. Thank you

THE VICE-CHAIRMAN: The House is now adjourned for lunch till 2.30 p.m.

The House then adjourned for lunch at thirty-one minutes past one of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock—The Deputy Chairman in the Chair.

STATEMENT RE. CONVERTIBLE CUMULATIVE PREFERENCE SHARES

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARY): Madam Deputy Chairman, as the House is aware, in Finance Minister's Budget Speech on 16th March, 1985 he had announced that in order to diversify the market, a new instrument namely Convertible Cumulative Preference Share, was being introduced. Guidelines for issue of these Convertible Cumulative Preference

Shares have now been formulated and these are being placed on the Table of the House. [Placed in Library. See No. LT-1338/85].

SHRI NIRMAL CHATTERJEE (West Bengal): Just now we have received this statement. How to react unless we see the guidelines?

THE DEPUTY CHAIRMAN: Don't react. This is all right.

SHRI NIRMAL CHATTERJEE: I will request him to read out the guidelines so that we have the opportunity to react. Otherwise, we cannot understand it.

THE DEPUTY CHAIRMAN: Have you got the guidelines with you? If you like, you can give a summary of the same.

SHRI JANARDHAN POOJARI: The objects of the issue of the above instrument should be as under:

- (a) Setting up new projects;
- (b) Expansion or diversification of existing projects;
- (c) Normal capital expenditure for modernisation; and
- (d) Working capital requirements.

Quantum of Issue: The amount of issue of CCP share will be to the extent the company would be offering equity shares to the public for subscription. The case of projects assisted by financial institutions, the quantum of the issue would be approved by the financial institutions/banks. The applicant company should submit to the Controller of Capital Issues (CCI) a realistic estimate of the project costs, along with copies of letters indicating the approval/participation of public financial institutions in the financing of the project costs.

Terms of issue:

- (i) The aforesaid instrument would be deemed to be equity issue for the purpose of calculation of debt-equity ratio as may be applicable.