

Shri M. M. Jacob—*Contd.*

notified area; that means any area notified, which is actually affected by the terrorists menace.

It is the duty of every Indian citizen to protect ourselves and the nation from any terrorist virus. We are making every effort to that extent. So, the purpose now is very limited. I am not going to argue with my hon. colleague on the merit of it because that is an area where we have to go into it in depth; and I am not opposing to any of these points. But, at the same time, an opportunity should be given to this House to debate this Bill in this House and examine the various aspects of it; and that will be possible only when we introduce it and you accept the introduction; and then we will debate the whole thing. This was for a limited purpose. We extended it for two years. That period was lapsed. So, the President had to promulgate an Ordinance; within six weeks from the commencement of the Parliament, we have to again approve it. Otherwise, naturally, the problems will arise. That is precisely the reason why I have brought this Bill before the House. And the terrorist menace still continues and more so is spreading to various areas, many other areas; and it has to be contained by strong measures and forceful measures with the cooperation of all parties and all people concerned. That is why, I was welcoming even the suggestions made by Mr. George Fernandes at this stage. I hope this Bill will be allowed to be moved and passed.

Mr. Chairman : The question is :

“That leave be granted to introduce a Bill further to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987.”

The motion was adopted.

Mr. Chairman : The Minister may now introduce the Bill.

Shri M. M. Jacob : I introduce the Bill.

14.43 Hrs.

Statement by Minister

REASONS FOR IMMEDIATE LEGISLATION BY TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT ORDINANCE, 1991

[English]

The Minister of State in the Ministry of Parliamentary Affairs and Minister of State in the Ministry of Home Affairs (Shri M. M. Jacob) : On behalf of Shri S. B. Chavan, I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991.

[Placed in Library. See No. Lt. 202/91]

14.44 Hrs.

JAMMU AND KASHMIR CRIMINAL LAW AMENDMENT (SECOND) AMENDING BILL*

[English]

The Minister of State in the Ministry of Parliamentary Affairs and Minister of State in the Ministry of Home Affairs (Shri M. M. Jacob) : On behalf of Shri S. B. Chavan, I beg to move for leave to introduce a Bill further to amend the Jammu & Kashmir Criminal Law Amendment Act, 1983.

Mr. Chairman : Motion moved.

“That leave be granted to introduce a Bill further to amend the Jammu & Kashmir Criminal Law Amendment Act, 1983.”

* Published in Gazette India, extraordinary, Part II, Section 2, dated 29-7-1991.

Mr. George Fernandes has given a notice to oppose the introduction of this Bill.

Shri George Fernandes (Muzaffarpur) : I do not want to deal with all the issues involved in this Bill in great length again because I believe that this is also one more draconian law ; and I am not surprised that such draconian laws are now proliferating in our country.

Shri P.C. Thomas (Mavattupuzha) : I am on a point of order. At this stage, a Bill can be opposed only on certain grounds. Mr. George Fernandes has opposed not only this Bill but the previous Bill also on the merit of the Bill.

It can be opposed on the question of jurisdiction or on questions of technical aspects which are stated at the time of objecting the Bill at the introduction stage. So, I think that objections of this type on the merits cannot be allowed at this stage.

Mr. Chairman : He has been allowed to make a statement when he gave notice to oppose the Bill.

Shri P.C. Thomas : At the introduction stage it is very limited and the point on which a Member can oppose at this stage is limited to the jurisdictional or the constitutional aspects.

Shri George Fernandes : No.

Shri P.C. Thomas : But the Member has to point out on what constitutional aspects he is objecting.

Shri George Fernandes : Let him read the rules.

Mr. Chairman : According to Rule 72 of the Rules of Procedure and Conduct of Business in Lok Sabha, and it says :

“If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, brief statements from the

member who opposes the motion and the member who moved the motion, may, without further debate, put the question”.

Therefore, permission has been granted to Shri George Fernandes to make his brief statement in opposition of the introduction of the Bill.

Shri George Fernandes : Thank you, Sir.

In the case of this Bill also, my point is that apart from the fact that it is a draconian bill, we are again trying to cover the same ground as in the case of the other Bill.

Here, the State had asked for six months in the first instance in order to identify the organisations that it wanted to declare as unlawful and to give time to a Tribunal to take a final view on the opinion of the administration of the State as to whether the order was justified or not. Then the State came for a first extension of another six months, and when it came for an extension for six months, which was in December last year, an Ordinance was issued because Parliament was not in session. And in January 1991, on the 10th of January, 1991 to be precise, this Lok Sabha discussed this matter. The Hon. Shri Yashwant Sinha who was then the Minister of Finance introduced this particular Bill in this House and while it was debated this is what he had to say :

“Since the State of Jammu and Kashmir is under President’s rule and Parliament was not in session the Governor promulgated the Jammu and Kashmir (Criminal Law) Amendment Ordinance, 1990 on the 17th December, 1990, for extending the period of six months to one year to enable the Tribunal to complete its proceedings in relation to such declarations. The Tribunal is yet to take a final decision in

the matter and the present legislation is to enable them to decide on the notification referred within the additional time limit of six months."

So, the additional time limit of six months within which they were supposed to complete their work, and I am sure the State knew what asking for, and the Tribunal when it sought additional time of six months knew what it was asking for, that time has expired. And there is no earthly reason that I can think of unless it be to continue with the repression that the State has taken recourse to in certain parts of the country, including Jammu and Kashmir, unless it be for this one reason, I see no other valid reason why this particular extension should now be sought and that this House should give that extension. It is on these grounds that I am opposing the introduction of this Bill.

Mr. Chairman : Will the Minister make a reply?

Shri M. M. Jacob : Again, in the case of this Bill also, I do not want to go into the merits of the Bill as the hon. Member himself has mentioned. But, at the same time, the hon. Member himself admitted that the extension was granted by this House for a Tribunal which is constituted under Act IV of the Criminal Procedure of Jammu and Kashmir State, to determine the organisations or institutions which work against the interests of the country. There were certain organisations and institutions and movements that tried to spread violence, hatred and also a sort of religious fanaticism at a stretch. It created a panic. It created problems in the State. So, naturally, it was necessary to ban certain organisations and Shri George Fernandes knows it very well. Those organisations were banned. The question arose, what is to be done about these organisations? We have to find out whether they are defaulters by asking for an explanation. To ban these organisations, we have to

ask for explanations and let the Tribunal decide. And the Tribunal with three members, Mr. Chairman, went on examining these things. The real reason now is that this Tribunal could not collect all the necessary information because there were defaulters. The conditions prevailing in those areas were not very ideal or conducive for them to get all evidences and to collect all information from all those agencies and the people concerned. So, the Chairman of the Tribunal had expressed that they got the intimation from the Government at a later stage and they did not have sufficient time to examine all concerned about this and give a report and so they needed extension of time. That was precisely the Chairman's request and that was the State Government's request. Now the President's Rule is in vogue in Jammu & Kashmir and there is no Assembly. Naturally, Parliament is the custodian and the determining authority now. That is how, this extension is sought now and replacement of ordinance is sought.

Shri George Fernandes : Mr. Chairman, may I seek a clarification from the Minister?

Is he sure that the Tribunal is not trying to get into an act of self-perpetuation because all Tribunals generally have this tendency? Before the Minister coming to this House, has he made sure that someone is not trying to get into an act of self-perpetuation?

Shri M. M. Jacob : Shri Fernandes, you know better than I about those points because you were there. At the same time, that is precisely the reason we have allowed time for debate in the House. Let us debate that issue whether the Tribunal is trying to escape or not during the debate.

Shri George Fernandes : So, you have come to the House without ascertaining the reason. (*Interruptions*).

Shri M. M. Jacob : As far as the information available with me, I believe that the Tribunal has got a genuine reason to come before the Parliament for extension.

Mr. Chairman : What Shri George Fernandes means, I think is that there is a genuine requirement for amending the Bill and is it only for the benefit of the Tribunal ?

Shri M. M. Jacob : This Government never comes for non-genuine things. We are always for genuine things.

Mr. Chairman : The question is :

“That leave be granted to introduce a Bill further to amend the Jammu and Kashmir Criminal Law Amendment Act, 1983.”

The motion was adopted.

Mr. Chairman : The Minister may now introduce the Bill.

Shri M.M. Jacob : Sir, I introduce the Bill.

14.52 Hrs.

STATEMENT BY MINISTER

REASONS FOR IMMEDIATE LEGISLATION BY JAMMU AND KASHMIR CRIMINAL LAW (AMENDMENT) ORDINANCE, 1991

[English]

The Minister of State in the Ministry of Parliamentary Affairs and Minister of State in the Ministry of Home Affairs (Shri M.M. Jacob) :
Sir, I beg to lay on the Table an expla-

natory statement (Hindi and English versions) giving reasons for immediate legislation by the Jammu and Kashmir Criminal Law (Amendment) Ordinance, 1991.

[Placed in Library. See No.
LT 203/91]

*DEMANDS FOR GRANTS ON ACCOUNT(GENERAL), 1991-92

[English]

Mr. Chairman : Now we shall take up item No. 23—Submission to the vote of the House of the Demands for Grants on Account (General) for 1991-92.

Motion moved :

“That the respective sums not exceeding the amounts on Revenue Account and Capital Account shown in the fifth column of the order paper be granted to the President out of the Consolidated Fund of India, on account, for or towards defraying the charges during the year ending on the 31st day of March, 1992, in respect of the heads of demands entered in the fourth column thereof against Demand Nos. 1 to 28, 30, 31, 33 to 89, 91, 93 to 98”.

* Moved with the recommendation of the President.