

order of the Sub-Divisional Magistrate, Jamshedpur."

"That this House disapproves of the Essential Commodities (Special Provisions) Amendment Ordinance, 1993 (No.1 of 1993) promulgated by the President on the 2nd January, 1993."

Items No, 18 and 19 are to be discussed together. So, now I call Shri A.K. Antony to move the motion for consideration.

THE MINISTER OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (SHRI A.K. ANTONY): Sir, I beg to move:

" That the Bill further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955, be taken into consideration."

As this House is aware, the Essential Commodities Act, 1955 provides for the regulation of production, supply and distribution of essential commodities to ensure their easy availability to the consumers, and also to protect them from exploitation by traders. With a view to dealing more effectively with persons indulging in malpractices like hoarding and blackmarketing the Essential Commodities (Special Provisions) Act, 1981 was brought into force with effect from 1.9.1982 for a period of five years. The said Act made special provisions by way of amendment to the Essential Commodities Act, 1955, in regard, inter-alia to summary trial of all offences by Special Courts, minimum mandatory imprisonment of three months, making of offences non-bailable, appeal against order of confiscation to State Government instead of judicial authority etc. The term of the Act was further extended by five years with effect from 1.9.1987.

A series of economic and fiscal measures initiated by this Government has made the trade and the industry more open and transparent. A question may naturally come up in our minds as to why we should persist with a regulatory legislation like Essential Commodities (Special Provisions) Amendment Bill at all. Is not such a measure out of

STATUTORY RESOLUTION RE
DISAPPROVAL OF THE ESSENTIAL
COMMODITIES (SPECIAL PROVI-
SIONS) AMENDMENT ORDINANCE
AND
ESSENTIAL COMMODITIES (SPECIAL
PROVISIONS) AMENDMENT BILL
(CONT'D)

[Translation]

SHRI NITISH KUMAR: Smuggling of foodgrains is going on under the very nose of the F.C.I. Civil Supplies Corporation and other Government agencies and it is their responsibility only. The Essential Commodities Act (Special Provisions) should have been applicable on the F.C.I. and the Civil Supplies Corporation. It is not applied on them but the poor village shopkeepers are arrested, beaten up and bribe is take from them in the police stations. Innocent people are sent to the jail and the guilty people are released from the police stations. Mr. Deputy Speaker, Sir, we would like to say through you that we have brought the disapproval motion in respect of the Special Provisions Act because we would like to appeal to the Government that there is no need at all to continue such a black law. There is no need at all to extend it. Till date it has not achieved anything. It's only achievement is that, it has been used against the common public. Therefore, it is just like giving more powers to the officer incharge of the police station for amassing more money. Therefore, for such a useless work the time of this august House should not have been wasted. The Government should not have brought this Bill after reviewing the same. We would like to urge the Government that this Bill should be withdrawn and we would like to appeal to the House that if this Bill is not withdrawn for the sake of the interests of their own people, then our disapproval motion should be accepted and this Bill should be opposed. With these words, I conclude.

[English]

MR. DEPUTY SPEAKER: Motion moved:

[Sh. A.K. Antony]

step with present economic policies?

This question had been answered in an overwhelming manner by the State Governments. They said, to this effect there is still a need to continue with this legislation. Surprisingly the State Governments were unanimous in adopting such a view. Being primarily responsible for the distribution of essential commodities, the State Governments are in a position to judge as to how handicapped they feel without a legislation like the proposed one.

This legislation deals with essential commodities only. In a country like ours where millions live below the poverty line, these items need to be monitored continuously. Unscrupulous elements are still active to exploit shortages and adverse local conditions. The artificial shortages and abnormal prices directly hit the poor and their purchasing power. The poor will have to either go without these items or reduce consumption of primary articles. Essential commodities also include critical items like cattle fodder, coal, cement, drugs, etc. Many important industrial inputs also figure under this category. It is therefore essential that no unscrupulous element or blackmarketeer should be allowed to create conditions of scarcity in these items. The very essence of our economy depends upon availability of these items. I am happy that the State Governments have realised this and unanimously favoured the extension of this legislation.

This is a crucial legislation to safeguard the national interest in vital spheres of national economy and welfare of the people, therefore, certain punitive measures are unescapable against blackmarketeers and harders. Offences mentioned in this Bill are cognizable and non-bailable. After considering requests from the trade associations and others an amendment was incorporated to ensure that only a responsible police officer, i.e. the officer in charge of a police station would exercise the power to arrest any person committing an offence

punishable under the provisions of this Act. Apprehension of misuse of powers by lower police functionaries is set aside by this Amendment.

Since the term of the Essential Commodities (Special Provisions) Act, 1981 was to expire on 31.8.1992 and Government was of the considered view that this Act should be continued without a break, the Essential Commodities (Special Provisions) Amendment Ordinance, 1992 was promulgated on 27.8.92. The Bill to convert this Ordinance into an Act of Parliament could not be passed during the Winter Session although it was introduced on the opening day of the Session.

[*Translation*]

SHRI DAU DAYAL JOSHI (Kota): Mr. Deputy Speaker, Sir, I would like to submit that the hon. Minister is not replying to the objections raised in regard to this Bill by Shri Nitish Kumar. He is only reading out the prepared speech. Shri Nitish Kumar has raised the objection that through this Bill Government is trying to give some more power to the police. Now it is for the hon. Minister to explain everything in this regard.

[*English*]

MR. DEPUTY SPEAKER: Joshiji, Shri Nitish Kumar has moved the Resolution. Items No. 18 and 19 are to be taken up together. The hon. Minister is moving item No. 19. He is not giving reply to Shri Nitish Kumar but he is moving item No. 19.

SHRI A.K. ANTONY: Please do not be in a hurry. I am moving the motion only. After discussion, I know we will have to reply to all the important points.

So, Sir, Government was of the firm view that the Ordinance should not be allowed to lapse as it would be detrimental to the interests of effective regulation of distribution of essential commodities. The Essential Commodities (Special Provisions) Amendment Ordinance, 1995 was promulgated on 2.1.1993.

Sir, in view of the reasons stated above, Government is of the opinion that the Essential Commodities (Special Provisions) Act, 1981 may be extended for a period of five years along with the amendments envisaged therein. Even after hearing Shri Nitish Kumar's speech, I still feel that this House will extend unanimous support to this legislation.

SEVERAL HON. MEMBERS: No.

(Interruptions)

SHRI A.K. ANTONY: While moving his resolution, Shri Nitish Kumar has made certain observations. I am not going to reply in detail about these observations now because after the conclusion of all the discussions I will give a reply to them. But, at the same time, I would like to say one or two sentences - about that. Shri Nitish Kumar was telling that even after the continuance of this Bill for long years, we have not been able to make a headway. It may be partially true. But I would like to remind the hon. Members that if there was no such legislation what would have been the fate of the poor, ordinary common men of this country. They would have hundred per cent been at the mercy of blackmarketeers and profiteers. We had this Essential Commodities Act, 1955 for many years. After many years of experience Government, in its wisdom, after consulting the State Governments and also all the important sections only, have brought this Essential Commodities (Special Provisions) Amendment Bill, 1981. This is not a new legislation. It just stood the test of the time. For the last 11 years this legislation is continuing. Actually the Central Government is not the implementing authority. It is the State Governments which are the implementing authorities.

In the past eleven years there have been several changes, political changes, in all the States. I may mention that in the present day Indian conditions this legislation is hundred per cent necessary in all the States and it has been recommended so by several political parties' governments - be it B.J.P., Janata Dal, C.P.M. or A.D.M.K. all these State

Governments have unanimously requested the Central Government that this legislation should be extended for another five years. This is the unanimous request of all the State Governments. Why it is so?

Are the State Governments anti-people?

No. All of them are unanimous that in the interests of the common people this legislation should continue. That is why, after discussion with all the State Governments and getting their views and after discussing with various interests including trading sector we brought this up.

[Translation]

SHRI NITISH KUMAR: I have myself said that all the State Governments have appreciated the move and they have expressed the view that such an act should be enacted. It is not a matter related to a particular political party.

[English]

SHRI A.K. ANTONY: It is that the result will be that we are saying that parliamentary democracy also will represent the interests of the common people. Ultimately it is the interest of all the elected bodies - Central Government or the State Governments or other elected bodies - that the interests of the common people are protected. We have to flow like that only.

Therefore, the Central Government considering all the State Governments' requests and all the interests including the trading interests only, after consultations brought this up. We want avoid to harassment to the honest traders, genuine traders who are not indulging in black-marketing and for this purpose we have brought in one amendment. We have also given guidelines to all the State Governments not to harass the honest traders. I agree with Shri Nitish Kumar that not much headway to the satisfaction has been achieved. Still we have to go a long way. Actually the implementing agency the Central Government, it is the State Government. The Central Government again and again is trying to impress

[Sh. A.K. Antony]

upon the State Governments stating that we have to be more vigilant, we have to show more political will so that this legislation which is for the welfare of the common people, is implemented more effectively. But at the same time I also agree that we should not allow anybody to honest people. The Government is also serious about that. But do you think that if it is completely left to the traders we can protect the interests of the common people? I agree that honest traders should not be harassed. But at the same time I strongly feel, the present Government strongly feels that the honest traders should be protected, at the same time those traders who are indulging in blackmarketing, hoarding and diversion of various articles, deserve no mercy. That is why we are still requesting your support for extending the legislation for five years. After going through all the discussions in the matter, I will be able to convince you that this legislation should continue. If you allow the legislation to lapse we are doing the greatest injustice to the poor man, the ordinary man of this country. So, I also feel in the end, with all your reservations including those of Nitish Kumarji, all of you will unanimously support the Government on this legislation. That is my feeling still with these words I beg your permission again to move that this Bill be considered and passed.

MR. DEPUTY - SPEAKER: Motion moved:

"That the Bill further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955, be taken into consideration."

(Interruptions)

MR. DEPUTY SPEAKER: There are certain amendments to the motion for consideration. Those Members who want to

move them may move them,

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Deputy Speaker, Sir, I beg to move-

"That the Bill be circulated to elicit public opinion thereon by 12th July, 1993". (1)

SHRI MOHAN SINGH (Deoria): Mr. Deputy Speaker, Sir, I beg to move-

"That the Bill be circulated to elicit public opinion thereon by 24th May, 1993." (4)

SHRI DAU DAYAL JOSHI (Kota); Mr. Deputy Speaker, Sir, I beg to move-

"That the Bill be circulated to elicit public opinion thereon by 4th June, 1993"(7)

SHRI RAJENDRA AGNIHOTRI (Jhansi): Mr. Deputy Speaker, Sir, I beg to move

"That the Bill be circulated to illicit public opinion thereon by 15th June, 1993". (8)

(Interruptions)

[English]

MR. DEPUTY-SPEAKER: Let us expedite the passing of the Bill. We have to pass the Vote on Account before the 31st March, 1993. So, your cooperation is absolutely essential. The time allotted to this subject is three hours.

(Interruptions)

[Translation]

SHRI SHYAMBIHARI MISRA (Bilhaur): Mr. Deputy Speaker, Sir, only 3 hours have been allotted for discussion on this subject which deals with the problem of 10 crores traders of the country. This is an injustice to the traders. I, therefore, request that time for discussion on this item should be extended. Rather, I would say that there should be no time limit for it.

SHRI HARCHAND SINGH (Ropar): It is the traders who are looting the country and yet he is advocating their case.

SHRI TARA CHAND KHANDELWAL (Chandni Chowk): Mr. Deputy Speaker, Sir, election is fought by taking money from the traders whereas they are the persons who are being abused.

SHRI DAU DAYAL JOSHI: Mr. Deputy Speaker, Sir, I have also given amendment on the Bill, I also want to express my views. Adequate time should therefore, be provided for holding discussion thereon... (Interruptions)

[English]

SHRI PAWAN KUMAR BANSAL: We should not be entering into that dialogue now. If Members.. (Interruptions)

MR. DEPUTY-SPEAKER: You kindly hear me. The time allotted is three hours. You can definitely impress the Government about whatever you honestly feel, it is not depending upon the hours; the way how we impress the Government, that is more important. Within the shortest period we can impress the Government with whatever you want to say.

DR. KARTIKESWAR PATRA (Balasore): I want to draw the attention of the whole House for all the things that are prevented by them. I want to seek a clarification from the hon. Minister on this. In my constituency.. (Interruptions)

MR. DEPUTY-SPEAKER: Dr. Patra, when you get a chance, certainly you can tell it. Now I have asked Mr. Digheji. He is on his legs. Meanwhile, if you were to encroach upon his rights, there will be violation of human rights!

DR. KARTIKESWAR PATRA: Sir, I only want.. (Interruptions)

MR. DEPUTY - SPEAKER: You can speak afterwards.

(Interruptions)

MR. DEPUTY-SPEAKER: Dr. Patra, this is not the time for you to raise all this;

DR. KARTIKESWAR PATRA: Sir, I want to know from the hon. Minister. (Interruptions)

MR. DEPUTY-SPEAKER: Dr. Patra, there is a system in the House. When you get a chance, certainly you can ventilate your grievances. When I have requested the hon. Member to speak, meanwhile if you were to get up and argue the case, it does not go into records.

May I request Shri Digheji to start his speech?

15.06 hrs

SHRI SHARAD DIGHE (Bombay North Central): Mr. Deputy-Speaker, Sir, I rise to support this Bill. (Interruptions)

The Bill is very simple. It only extends firstly, the life of this Essential Commodities (Special Provisions) Amendment Act by a further period of five years and also seeks to introduce a small amendment that no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing shall assist any person accused of committing an offence punishable under this Act.

Now, Sir, there have been two pressures as far as this law is concerned. The first pressure is that of consumers. The consumers are well protected as far as this Act is concerned and for the protection of consumers this Bill is absolutely essential. There are several other enactments all such as Consumers' Protection Act and so on. But as far as dealing more with person indulging anti-social activities like hoarding and blackmarketing and the civil of inflationary prices., these provisions are absolutely necessary.

Now a point has been made by the hon. Member, Shri Nitish Kumar that this has been ineffective, it is of no use, it is resulting into harassment of the people. Now, Sir,

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what I submit is, if any enactment is not very effective, is not giving us satisfactory results, the remedy is not to remove that Act, but to give more teeth to the Act and also to guide the State Governments and instruct them to implement this Act as effectively as possible. Not the charge of corruption is with respect to every enactment. If you pass any enactment, people can come forward and say that you have passed this law, but it cannot be implemented, so many loopholes are there and the executive or the officers are corrupt and therefore, they are not implementing it. So, this general charge cannot prove that this enactment should not be further put into force. The purposes of this enactment is existing and if we have to achieve the purpose still, then these provisions are to be there on the Statute book. As a result of the implementation, if you see the figures, only a few persons have been convicted. As Nitish Kumarji has pointed out to this House, the result of conviction is only a small figure. There may be two reasons for this. The first is that it is a deterrant Act and because of this Act, the people are not indulging in black-marketing, hoarding and they not charging reasonable prices as far as essential commodities are concerned. They are afraid that if they indulge, there will be very harsh punishment. Therefore, this Act is a deterrant Act and more persons are not convicted.

Secondly, there may be some lethargy and there may be corruption in implementing this Act and therefore, it may result in harassment or less number of cases may be detected under this Act. For that purpose, the remedy is not to withdraw this Act; the remedy is to implement the Act more effectively and if necessary we should give more teeth to these provisions so that this problem can be effectively dealt with.

There are very stringent provisions in this Act now, which keep blackmarketing and hoarding at bay and there is control by the Special Courts and the offences are made non-bailable. Then, there is a mandatory punishment of three months and there

is no appeal further to any judicial body. The appeal lies straight with the State Governments. Then, there are provisions for confiscation of the goods and therefore, with these provisions which are laid down by this Act, people are afraid to indulge in blackmarketing and these offences against the society, against the poor people and the poor people are getting some benefit out of this Act.

Now, there is a big lobby of traders who do not want this Act and therefore, for the last several years, they have been campaigning. When this Act was about to expire also, a lot of pressure was being brought on the Government and the concerned bodies that this Act should not be extended further. Naturally, this Act does not enable them to resort to anti-social activities. There is a deterrent punishment under this Act for those kind of activities, but if there are any irritants they may be looked into by the Government. For example, there is no appeal to any judicial authority and therefore, a lot of harassment is there and there is no feeling along the people that they would get justice ultimately.

Therefore, instead of appeal of the Government, if the Government can think of again providing an appeal to any judicial authority, then the sense of getting justice will be imbedded in the public because, always not only that the people should feel that justice is being done, but they must experience that justice is being done. Therefore, if the Government can think on these lines in future, of introducing some body which would hear these appeals instead of the Government, then it would be better. Then, there is one very drastic provision, namely, no bail is given till the prosecutor is given an opportunity to be heard and I am told that this is a great scape for corruption, because unless the prosecutor is heard, the Judge cannot consider granting of bail at all the accused remains in jail. Sometimes, the prosecutors take their own time. They apply for adjournments to find out the records, find out the proper information and till that time, even though the accused may be innocent, he does not get bail at all. Therefore, this provision also needs to be looked into.

Then, thirdly, there is a very harsh provision under which all the goods are confiscated. I can understand if the goods which are suspected goods, only that much quantity may be confiscated. But, because of the wide powers that are given, large quantities of goods are unnecessarily confiscated and perhaps sold in the public auction completely. These are some of the irritants as far as the traders are concerned, and therefore, in order to remove these irritants. The Government may look into it and if they are removed, there will be less and less complaints as far as this Act is concerned. The people should also welcome it because it is in the interest of the consumers. Similarly, the honest traders also should be able to welcome such provisions if these irritants are removed.

Sir, it is very significant that all the State Governments are unanimous that there is a need for continuing this Act and all the State Governments are not of one political party. Now-a-day, most of the important political parties are somewhere in power. No doubt, at present some of the States are under the President's rule, but when they were consulted, they were in power. That shows that even every political which is of any significance in this country, they want that such an Act should be there. If the weapon has become blunt, it should be sharpened and more teeth should be given, but you cannot throw away this weapon by saying that it is not working at all. It is very significant that all the State Governments are supporting it.

Sir, as the hon. Minister has said, it has stood the test of time for the last 10 years and nobody has very seriously combined against it. There are a few irritants as I have pointed out. If they are removed, then this Act can work very smoothly and it will benefit mostly the consumers, the poor people and all others who need protection. Of course, one more factor should also be considered. Now, the supply position is satisfactory and there are not acute shortages as it existed in 1981 or in 1987 and perhaps we are in a position to export rice, wheat and sugar and the supply position has improved. So, from that point of view, the Government should

remove some of the very harsh provisions in this Act so that there will be less complaints and less dissatisfaction from the traders community also. As it is, I welcome the extension of this Act for a further period and therefore, I support this Bill.

MR. DEPUTY SPEAKER: Before calling the next speaker, I would like to inform the House that the total time allotted for the Congress Party is 1 hour 18 minutes, BJP 37 minutes, Janata Dal 18 minutes, CPI (M) 11 minus etc. It is better to know the time allotted to each party so that the speakers will adjust according to the time allotted to their respective parties. It is only with that purpose I have informed this to the House.

[Translation]

SHRI TARA CHAND KHANDELWAL: Mr. Deputy Speaker, Sir, the ruling party has been allotted 1 hour and 20 minutes time for expressing its views on the Bill. This much time is sufficient for them since they do not require to speak much on it for the Bill has been introduced by them only. On the contrary, we should be given more time to express our views on it.

[English]

MR. DEPUTY SPEAKER: It depends upon the strength of the political party.

[Translation]

SHRI SHYAMBIHARI MISRA: Sir, I am the Chairman of the Federation of All India Foodgrain Dealers Association as also the President of the All India Traders Association. Political parties have maligned the image of the trading community throughout India. I, therefore, hope that even through I am being called a President of hoarders by some Members. I would be provided adequate time to express my views in favour of the trading community for which I have come here.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Mr. Deputy Speaker, Sir, this may be noted that he is not a represen-

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tative of the people at large, rather he represents the business community alone.

SHRI SHYAM BIHARI MISRA: Yes, what I am trying to say may be noted. What are the problems I want to project may be noted. Mr. Deputy Speaker, Sir, I want to highlight the agonies and problems being faced by the business community. There are 10 crore traders in the country and their image has, as has been said by Shri Nitish Kumar, gone down considerably. Shri Sharad Dighe has also expressed the view that the people belonging to business community indulge in dishonest practices. I would like to submit to you that the proposed Amendment in the Essential Commodities Act is undemocratic and unconstitutional and a moreover it will encourage black marketing and corruption. Consumers are not benefited through it in anyway. The entire business community is caught in the grip of redtapism due to the provisions of this Act. I shall explain the condition of traders later. Here I precisely want to speak about the Bill that has been introduced.

Mr. Deputy Speaker, Sir, this special provision was inserted in the year 1981. There was a shortage of essential commodities in the country at that time. Wheat, rice and sugar were being imported from abroad. That was the time when this legislation was brought forward and it was decided that the Act would be effective for five years only. When this Bill was introduced in 1981 it was written in the Bill "That this Bill seeks to make certain special provisions by way of short term amendment to the Essential Commodities Act 1955."

Since 1981 till now, there has been a considerable change in situation. In 1981, we had to import rice, wheat and sugar but now we are exporting these commodities. While presenting the data the hon. Minister himself has said that at present we have a buffer stock of sugar. Just now, when the Minister was giving data of exports, he said that we were also exporting wheat. During 1990-91, 38.51 thousand tonnes of wheat

was exported. Basmati rice was also exported. The hon. Minister said that we exported Basmati rice to the tune of 288.56 thousand tonnes and 187.85 lakh tonnes non-Basmati rice was exported. According to the data given regarding sugar the present buffer stock of sugar is 46 lakh tonnes. As regards other essential commodities, Shri Antony has just now given the example of iron and cement, which were controlled items in 1981 but at present these are decontrolled. Today, cement is being produced in abundance and its demand has decreased as a result of which this industry is getting sick. The same is true of iron. During 1981, it was a controlled item and today as it is available in sufficient quantity our Government has decontrolled it. Some other essential commodities also do not have any control. In 1955, 66 items were taken under Essential Commodity Act as there was scarcity of these items in the country. Even soaps and blades were being imported. But today, we are exporting soap, oils, blades, cycle tyres and tubes and battery cells etc. Now, the need of the hour is to amend the list of essential commodities included in the Act of 1955. But instead of amending it this Act is again being imposed on us. A good point was raised here and we also agree to it. As a trader we should not resort to blackmarketing and profiteering. We agree on this point. Consumer is a sort of god for the trader. If a customer does not turn up at my shop, I cannot do business and thus maintenance of my family will be affected, so consumer is my God. We want to protect his rights. But is there anything of this sort mentioned in the special amendments to the Essential Commodities Act? A very good point was mentioned in it in 1981 which is again repeated in 1992 that it is being brought in order to check the blackmarketing and hoarding.

Sir, I want to submit that hoarding means storage of goods in excessive quantity but there is a separate law to deal with it. Our Minister only has made this law and none else. Today there is a stock limit fixed for every item for the trader. The stock limit for wheat is 250 quintals and likewise a limit has also been prescribed for rice, jaggery, sugar,

vegetable oils and pulses. Different limits have been fixed for different categories of traders who are doing business with a valid licence. Not a single case of hoarding was found during the raids that were carried out and no trader was charged with hoarding. It was only for petty happen that they were fined. You can get it verified. If there are 504 bags in the godowns of a trader instead of 500, then he is challenged. That particular businessman has not done any hoarding, you can go through the cases and make an enquiry. You have already made a law to check hoarding. But this is nothing else but harassment of businessmen. In order to stop hoarding you have already fixed stock limits for every item. You simply want to bring this thing on the pretext of hoarding.

Another point is about sugar. The hon. Minister has said that at present the Government has buffer stock of 46 lakh tonnes of sugar. It cannot be exported, because Indian sugar does not have any world market. No country in the world is ready to buy sugars from us, because our sugar is costly due to the higher cost of production. Besides, you have also fixed the stock limit as well as the time limit. The sugar which comes to my shop today should be sold within a week. You have not made any provision for the contingency if it is not sold out within this period. Should the trader throw it in the cages or set it on fire? If the stock is left unsold on eighth day then the trader is liable to be jailed under section 3/7 of this Act. What sort of law is this, what kind of rule is this?

You have also mentioned about blackmarketing. Sir, I wish to submit that this might be true in 1981 that blackmarketing was there in Ration shops but today the situation is different. Why it is so? Because the price of wheat in Ration shops is Rs. 330/- per quintal whereas in retail outlets it is available of Rs. 340/- These are official figures, not mine. The Government has produced data regarding issue price and market price. According to these figures the current issue price for wheat is Rs. 330/- and for rice it is Rs. 437/-. It has been said that after a market survey was done in Decem-

ber, 1992, retail price of wheat was found to be Rs. 340/- and the retail price of Rice was Rs.4.30. When the market price is Rs. 340/- and the retail price is Rs. 330/- then their is least scope for blackmarketing.

The Government has passed an act to deal with the blackmarketers, profiteers and hoarders. You have made a provision in this act regarding.....

[English]

Prevention of blackmarketing and Maintenance of supply of Essential Commodities Act, 1980.

[Translation]

When an Act is already there, how many Acts will you make for the same purpose? Your present Act is effective enough to check hoarding profiteering and blackmarketing and if it is not effective then you may go for another Act. Just to oppress the trading community you are going to make four laws. Are you also doing the same for other economic offences? Blackmarketing is possible only in those items, the prices of which are fixed by the Government. It is possible in Ration shops. If you want to implement this Act then implement it only on those items the prices of which are fixed by the Government, you are implementing it in a generalised manner. You have not implemented it on a person who is selling wheat on pavement after purchasing it directly from a farmer. Is there any scope for blackmarketing in such a situation or you are just pretending it. You are saying repeatedly that all Chief Ministers are ready for it. But all State Governments have levelled charges of manipulation against the Centre and today this House is also being misled. I want to submit through you that even today the hon. Minister is misleading the House when he says that the measure is aimed at checking blackmarketing and profiteering. There can not be a citizen, leader or an officer who will refuse to check blackmarketing you manipulate things because you do not have the courage to speak the truth. Hon. Minister, a

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you are a new hand, you need thorough study. Kamaluddin Saheb is here but he is sleeping. He has no concern for the business community. He is fast asleep and even after so much of pricking, he has not awakened. (Interruptions)

MR. DEPUTY SPEAKER: The Minister is listening to your speech and also doing meditation simultaneously.

(Interruptions)

[English]

THE MINISTER OF CIVIL SUPPLIES CONSUMER, AFFAIRS AND PUBLIC DISTRIBUTION (SHRI A.K. ANTONY): We are patiently hearing you.

Translation]

SHRI SHYAM BIHARI MISRA: Not only he hon. Minister is asleep but the whole country is not concerned about the problems of the traders. The treasury benches are giving a deserted look at the time of discussing the problems of traders. The Congress party has also turned its back to the problems of traders and they are imposing their misdeeds upon the business community. There is no need to amend the Essential Commodities Act. I would like to call the whole House as well as my colleagues who have spoken about the activities of the traders that a trader has to get 13 licenses before he starts his business. The government have enacted stringent laws in respect of black marketing and hoarding. I am having this booklet with me, you may go through it if you so like. This is in English not Hindi. The student who gets first class first becomes an I.A.S. officer and one who secures 1st or 11nd division becomes a gazetted officer. The one who gets a 11nd division becomes P.A. etc. and a third division becomes a clerk and the one who fails gets a supplementary becomes a busi-nessman, because he does not get a job anywhere. You have enacted such stringent laws for them, yet you are unable to control

them even with the help of this voluminous law book. Even the officers do not have full knowledge of rules but they expect from an illiterate businessmen to run his business according to such rules. I want to submit that not only this.....

SHRI SHARAD DIGHE: Commentary is also given in the Book.

SHRI SHYAM BIHARI MISRA: This is Essential Commodities Act. Everybody spoke with one voice in favour of the welfare of consumers and the poor. You have enacted a number of laws in this regard. We also wish their welfare more than you because for the trader his consumer is his god. Central Government has already enacted 43 laws in this regard. Apart from these every State has its own laws numbering about 12 to 18. There is a separate law for each item. When there are so many laws then why do you need a special provision? Apart from that a trader is required to obtain sales tax license, a market fee license and have to get a registration in respect of Income Tax. Small traders are hard pressed. They have to obtain 18 licenses, when they do business under these.. I am saying this specially in connection with Essential Commodition Act....

SHRI TEJ SINGH RAO BHONSLE (Ramtek): Income tax should be abolished.

SHRI SHYAM BIHARI MISRA: You do not know about it, I will just come to this point. Do not be impatient.

We are required to deposit security under various laws applicable to business community. To start a trade, licences are required. Besides a cash security of Rs.5,000, we are required to mortgage our property. After all, how many restrictions will be imposed on the trader community? For a factory, licence is required to be obtained from the administration. Anyone desirous of entering the foodgrains trade has to first obtain five licences. Separate licences are required for the wholesaler and for the commission agent. I would like to submit to the hon. Members present in the House that any

trader in the rural areas desirous of installing a flour mill has to first obtain processing licence and in case he also wants to install a machine for pulses then he has to obtain both the manufacturing and the trading licences. Under this Act, every trader has to obtain four licences and for obtaining each such licence a sum of Rs. 5,000 is required to be deposited as security money. No licence can be obtained without paying a bribe of Rs. 10,000. Even if someone is interested in doing his business strictly in accordance with the provisions of the law or applies for a licences for the same, the officials want their palms to be greased.

SHRI NITISH KUMAR (Barh): Why do you grease their palms?

SHRI SHYAM BIHARI MISRA: You have asked a very good question, why do we grease their palms? It is just because of the latest amendment in the law that any offence under this law has become non-ailable and all the partners whether they be the sleeping partners or simply the financiers or the working /active partners will be arrested and put in jail. It will be followed by seizure of their entire stock. Sir, there is nothing to laugh at.

SHRI NITISH KUMAR: He misunderstood the technical term, sleeping partner and therefore, laughed.

SHRI SHYAM BIHARI MISRA: Mr. Deputy Speaker, Sir, I would like to know as to why this Bill is being opposed? Just now one of the hon. Members submitted that the traders' lobby is a very strong one. Had it been really so strong then the Bill could not have been passed. Business pertaining to the strong lobbies is easily carried through. We are not an organised lot. However, our discomfiture is that the entire stock of the traders is seized, but is not auctioned off. Such a provision exists neither in the Income Tax Act nor in the Excise or Customs Act nor in the Act pertaining to the Sales Tax Department. It is the only law of its own kind. Only under this draconian law, for a shortfall of even 5 bags of wheat, the entire stock of pulses, kerosene, sugar and of other com-

modities is seized.

Mr. Deputy Speaker, Sir, we cannot even move the courts for appeal. Is there any such rule book of democracy, which infringe the right of a citizen to move a court of law for seeking justice? Contrary to this basic ethic of law today the Government has come forward with such an amendment. Moreover, the hon. Minister is supporting it. Shri Dighe is supporting it.

[English]

MR. DEPUTY SPEAKER: Dighe ji suggested the judicial appeal.

[Translation]

SHRI SHYAM BIAHRI MISRA: Sir, please listen to the traders. You have just now asked as to why the traders pay money? Have you ever pondered over the position of a trader who has been on one hand put behind the bars and the on the other, his entire stock has been seized and sold out at controlled prices and the entire money collected thereby stands deposited in the Government treasury particularly when seized stock was not that of the trader or wholly owned by him, but was purchased with the amount of loan he raised from the banks or money lenders or with the money he borrowed from the market. Have you people over pondered over as to what will be the fate of the family members of such a trader in these circumstances? From where the money for litigation will be mobilised? It is the fear of seizure of stock that compels the traders to part with that money. Shri Nitish Kumar, you have rightly asked as to why do we part with that money? Actually we do it under compelling situations. One more compelling factor is the denial of right of appeal in a court of law.

AN. HON. MEMBER: Why are the goods sold without issuing proper receipts?

SHRI SHYAM BIHARI MISRA: I never do so. Shri Dighe has stated that for the purpose of granting bail, Public prosecutor will be consulted. That is correct. But that

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PP, is also a Government pleader who demands anything between Rs. 10, 000 to Rs.25, 000 for his favourable report otherwise no report will be filed/furnished by him on the bail application even upto a period of eight days. It being so, will you ask as to why the money is paid? Even if, after the arrest of all the partners and seizure of the entire stock by the Government, the case is won in the courts, it is very difficult to get back money from the Government treasury and in case it is received, it is at the Government rate and not at the market rate. From that angle also, we are always a loser. It is under these circumstances that the wishes of the Government officials have perforce to be fulfilled by the traders. Without it, they will collapse.

Mr. Deputy Speaker, Sir, the Essential Commodities Ordinance, is suicidal for the trader community and only as a safety measure, money is paid out of compulsion. A little while ago, Shri Nitish Kumar, Shri Dighe and the hon. Minister made certain assertions. What can be concluded from the statistics? Shri Nitish Kumar has furnished old statistics. However, I would like to furnish the statistics of 1990 and 1991. In 1990, 1,34,002 raids were conducted and 5984 persons were prosecuted and sent to jails. However, only in 4866 cases charges could be established and the rest were wrongly sent to jail. These are the Government statistics and not mine. Just now someone has commented that I am a leader of the hoards. If it is so, atleast allow me to speak on the various problems of the hoarders.

AN. HON. MEMBER: Who said so?

SHRI SHYAM BIHAR MISRA: Some-one commented from the back benches.

SHRI NITISH KUMAR: Mr. Speaker, Sir, I am on a point of order. He branded himself perhaps in a lighter vein, to be the representative of the hoarders. However, none of the hon. Members is the representative of the hoarders or the blackmarketeers. Please do not allow this thing to go on

record. In lighter vein it is O.K. Otherwise in future, some researcher might find out that all such things were uttered in the Parliament. It is not good because tomorrow somebody will call himself to be the representative of the smugglers and someone will call himself to be the representative of the rapists.

[English]

MR. DEPUTY SPEAKER: He has not said that they are representatives of blackmarketeers; he has only told that they are the representative of the merchants.

[Translation]

SHRI SHYAM BIHAR MISRA: Sir, under this Act, 603 traders were punished. Now you are asking as to how they were released. I would like to place in the House a newspaper in which they have published statistics pertaining to West Midnapore district of West Bengal. I would like to refer to two cases of prosecution reported in the newspaper. Case was filed for hoarding ten loaves of bread. I am prepared to mention names and I am not speaking without a basis. Case No. 11/87 on 16.4.87 against one Ganesh Kumar Mahant of Isrampur was filed for hoarding one tin of rapeseed oil but it could not be established and the case was dismissed.. (Interruptions) You may assert that in this way, no case could be upheld in the court. I have got with me a list of 48 such cases where the case was filed for storing merely ten loaves of bread or 4 Kgs. of wheat flour or something like that. Are these traders hoarders? They were imprisoned but released later on. Now you will assert that, as Shri Dighe stated, the traders did not do so out of the fear of prosecution. It is not so, therefore, I would like to submit to you to ponder over all the other problems of these traders. Sir, Through you, I would like submit to the whole House that they should ponder over the service being done by the trading community as compared to that by the Government department. The Department of Civil Supplies is headed by the Minister of Cabinet rank and to assist him there is a Minister of State,

Minister of the Department of Food, Minister of Food Processing Industries, a number of Secretaries, Additional Secretaries, Joint Secretaries and Under Secretaries with all the paraphernalia. Similarly in all the States, there is a similar set up. All these people monitor supply of just four commodities namely, wheat, rice, sugar and kerosene even that thing, they cannot do properly. Sugar quota meant for Holi and Id is released and distributed by the FP Shop after the festivals and only one sign board is displayed at the shops that stock is finished and the owner has gone to fetch it. Such a big department with all that paraphernalia is unable to ensure proper supply of just four commodities to the citizens of India. While on the other side it is the traders who, in the face of scorching heat of JUNE at Noon in Rajasthan ensures the availability of essential commodities at their shops

During the months of January - February, when there is severe cold, though the traders work hard till late nights even in hilly regions to provide essential commodities to common people and yet you are defaming them by calling them hoarders and profiteers.

Sir, my submission is that F.C.I. holds the charge of distributing four commodities and there is a loss of about 13-14 crores rupees every year in the distribution of these four commodities which is being compensated by means of revenue. The traders pay sales tax, income tax etc. and then only they spare some money to get religious places like Mandir, Masjid, Gurudwara, some important river Ghats, Dharamshalas, hospitals, schools etc. constructed.

SHRI TEJ SINGHRAO BHONSLE (Ramtek): What ever the trader gets constructed is by means of black money only.

SHRI SHYAM BIHARI MISRA: Mr. Deputy Speaker, Sir, a number of temples, mosques, gurudwaras, river ghats etc. have been built all over the country including the constituencies of our hon. Member.. (Interruptions)

SHRI RAJVEER SINGH (Aonla): Mr.

Deputy Speaker, Sir, the hon. Member is saying that all this is done by means of black money. My submission is that the trader does so out of his own wish to serve the mankind. He is better than those who deposit huge amount of money taken as commission in Bofors case in Italy. He does not deposit the money at least in the banks of other countries.. (Interruptions)

PROF. RASA SINGH RAWAT (Ajmer): Sir, the Members of other side are attacking the Members of our party..

(Interruptions)

[English]

SHRI PAWAN KUMAR BANSAL (Chandigarh): He must confine to what the subject of discussion is. (Interruptions)

[Translation]

SHRI SHYAM BIHARI MISRA: I am coming to the subject itself. Since you were talking of hoarding and profiteering I diverted to it. My submission is that the Government should pay heed to the problems of the tradesmen. Mr. Deputy Speaker, Sir, it is not proper to make allegations against traders. My submission is that traders are the persons who get temples, mosques gurudwaras and river ghats constructed. The inscriptions on the stones laid down at the above mentioned constructions shows that only the traders are interested in doing such charity work. Such interest has not been shown by any official or a political leader. If at all there is any stone is laid down by any politician it certainly be for mentioning the inauguration purpose. The traders are being defamed unreasonably, their image is being maligned. That is why no Chief Minister is ready to support the traders. The hon. Member is giving examples to this effect again and again.

Sir, I would also like to submit that although Shri Manmohan Singh wants to eliminate corruption and black money yet, this Act is helping to generate black money and encourage corruption. The traders have

[Sh. Shyam Bihan Misra]

to grease the palms of the officials with their white money the reason I have already given, I would not like to repeat the same and when the money reaches the pocket of the officials, it is turned into black money. This amendment tends to encourage corruption and generate black-money in the country. Through you, I would like to request the hon. Minister to get the whole matter investigated. It will certainly make evident that amount ranging from Rs. 10,000 to Rs. 50,000 is taken to deal with a single case, money is demanded according to the capacity of the trader. Is it not a wrong practice? The Government can penalise the corrupt traders, and it already have the laws for the purpose. There is no need for this amendment. The Government has not introduced any amendment which is likely to eradicate black marketing.

Before I conclude I would make a submission. Just now, the hon. Minister stated that the trade unions have been taken into confidence. He also furnished a document to prove the utility of this Act. In that document he has stated that a large number of trade unions in the country...

[English]

AN. HON. MEMBER: For how long will he Speak?

MR. DEPUTY SPEAKER: Thirty seven minutes have been allocated to the BJP. If he has taken half-an-hour, he can speak for another few minutes.

[Translation]

SHRI SHYAM BIHARI MISRA: His suggestion has already been taken into consideration. He says that he has personally visited all the trade organisations whereas my submission is that he has visited none of them, he has just gone through the report submitted to him by his officers. Sir, you are new in this department. I met Shri Kamaluddin Ahmed on 16th July 1992. He had admitted that the amendments proposed in the ordi-

nance were wrong. He had sought my suggestions in that regard. ASSOCHAM had given suggestions in writing. One copy each of which had been provided to the hon. Minister and me. It is a complete document. However the Government paid no heed to those suggestions.

In 1987, when the same amendments were introduced in the House with a proposals to extend it for further five years, Shri Bhagat was the Minister of Civil Supplies. He had agreed that there was a need for a change in it, and he did issue some guidelines in that regard. Even then neither any officer nor any court followed those guidelines. Some cases were filed to justify their stand. It was not that objections were raised only by the Andhra Pradesh State Trade and Action Committee or ASSOCHAM, similar posters were dispatched from Karnataka, Gujarat and Bengal also. At least 50 deputations were sent to the Central Government.

[English]

MR. DEPUTY SPEAKER: Showing of pamphlet is not permitted.

[Translation]

SHRI SHYAM BIHARI MISRA: But the Government paid no attention to them. Today again, the hon. Minister tends to mislead the House and he says that trade organisations have been taken into confidence with regard to this matter, however, the fact is that nothing to this effect has been done. Neither he has accepted any of the suggestions given by the trade organisations nor he has taken any concrete step in this regard.

Mr. Deputy Speaker, Sir, after making all these submissions, I would like to say that keeping in view the services of the traders and also the atrocities which are being committed on them there is no need to introduce this Bill. If the traders are neglected, if they are defamed, I would say nothing on behalf of them.

"khoon lekar agar pasine ki keemat nahin doge,

To bagawat ke liye beat kafi hogi."

Therefore, Mr. Deputy Speaker, Sir, through you, I would like to request the hon. Minister to withdraw the Amendment Bill, there is no need of it as already there are adequate legal provision to check hoardings, black-marketing and profiteering, the traders should be protected from exploitation. There are about ten crores of traders who feel that they are being treated as second class citizens. Cases of summary trial are being filed against them and they are not being released on bail. Their stocks are being seized. I would like the trader be protected from such exploitations, their safety should be ensured and this law should not be enforced because it will certainly increase black money and encourage corruption. It is not going to provide any relief to the consumers. Consumer Protection Act is already there to safeguard their interests.

With these words I would urge this august House to realise the difficulties and problems of the traders. Hon. Minister, is a new Member. Therefore, I support the resolution re. the disapproval of the ordinance moved by Shri Nitish Kumar and hope that the hon. Minister would withdraw the bill, and review it. Mr. Minister perhaps you are unaware of the concerned, reports you have acted according to what your officers told you. Therefore, I would like you to withdraw the Bill at the moment, evaluate all the reports and then only introduce the Amendment Bill in the House, if necessary.

PFOF. SUNSANTA CHAKRABORTY (Howrah): Sir, the Essential Commodities Act, 1955, its amendment in 1981, the subsequent amendments and provisions that are contained therein seek to regulate the production, supply and prices of essential commodities. Now, the Act expects of the Government to see that the marketable surplus goes to the market for supply to see that essential commodities are supplied to the consumers at a reasonable price and to see that there is no hoarding of commodities. The provisions of the Act become more

important in view of the fact that more than 40 per cent of the Indian population live below the poverty line and no Government can shirk its responsibility to supply essential commodities to the poor consumers. The Act can be judged from two points of view, one from the point of view of the traders and the other from the point of view of the consumers.

16.00hrs.

We have heard the traders' Voice inside the House and outside the House also. We have heard that the provisions contained in the Act are very stringent, draconian and that tision of distributive justice, which the Government should guarantee to the people of our country, I must say that some extraordinary measures are needed to deal with an extraordinary situation. I do not know why the traders are afraid. I do not know why the Presidents of the Traders are afraid. honest traders have no reason to fear in any way. Those are very extraordinary measures. If we judge the question from the angle and the unscrupulous traders, the dishonest traders, those who resort to profiteering and hoarding, only they have to worry about the provisions of this Act. They may have worry about the summary trial, about the provision that there would be no bail, about the provision that the appeal can be made only to the State Government and so on.

16.01 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Hon Chairman Sir, when you are speaking from the Treasury Benches, you suggested that the provision of appeal may be made to be judiciary. Sir, these people are like poisonous snakes. These are the people who play with the lives of the people. In this country, where we live, even justice is to be bought. Justice has become a commodity: Long back, our great poet Rabindranath Tagore wrote in his poem 'Prashno' 'The Question' that he saw how the message of justice cried in silence in the wake of unbidden

[Prof. Sunsanta Chakraborty]

crimes committed by the strong. These strong people live here.

Now, it is very good that the provisions are there in the Act. But what is the need for continuing with the provisions even for another ten years when these are not properly implemented? This is an admission by the Government of the fact that they have failed to act. Why? It is because they lack the political will and they lack the determination to implement the provisions. It is often stated that everything is left to the State Government and they have to deal with the traders. But Sir, we live in a country where the Central Government, through its Budget, through its dealings with the Banks and through its dealings with the securities market, gives a message to these traders that they are actually for them and they have nothing to worry. They have a relationship with them. We have seen it and history proved that there is a relationship between the big sharks and Members of the Treasury Benches. It is a tragedy that such a relationship exists between the two. Where does this type of Budget come from? They take the cue that they have nothing to worry and there is nobody to punish them and all that they have to do is to fill their coffers for their election needs. If they do that, there will be no punishment. If this message is given to them, how can we deal with those people? On the one hand you say that you will continue with this Act because of profiteers and hoarders and because of inflation and price rise. Only during emergency situations, freedom of choice of the consumers is restricted. To restrict the freedom of choice of the consumers in this way, you are to confiscate the property and confiscate the articles that they have. You leave it to the Public Distribution System to tackle this matter. What the Government should do is to supply essential commodities through the Public Distribution System.

Take these things away from the traders and distribute them at the subsidised price to the people. But you did not agree. You just preferred that this situation should

be continued. We are against this situation, Sir. So, what is needed is that we should give more emphasis on the implementation part. Giving more power to the executive shall not serve the purpose. It is to be implemented and implemented strongly. The Government should act with strong determination. More teeth should be given to the State Governments. Through this Act those teeth have been given. I agree that this should continue but what about the implementation part? That is my main question and I want an answer from the Government.

Secondly, Sir, I would like to Government to think Whether offences like not showing the details on the blackboard and offences like blackmarketing are to be treated as the same. These two offences cannot be treated as similar. Punishment for these two offences cannot be similar. So, the Government should be more conscious in this regard.

There are complaints of harassment of traders. Who harass them? It is the officials, who are responsible for the job, who harass the small traders. This harassment should be stopped immediately. The logic that because the traders are harassed, the Act as such should be withdrawn is to argue that because there is headache, you cut the head and get relieved of the pain. But I do not agree with this logic.

Once Pandit Nehru declared, " If we come back to power we shall hang those black -marketeers on the nearest lamp-post. "Years have passed since that declaration was made. I would like to know from the Government how many black -marketeers have been hanged. Why have you not hanged them up? Is it because you want some *Rassi* to hang them? That being so, the Government might have asked the coir board to supply the *Rassi* and it could have hanged them. But the Government did not do that?

As regards judging this issue, I demand that this case should be left to the State Governments. I shall be very happy if people

are judged in the people's court. Secondly, I want that the public Distribution System should be strengthened. My third suggestion is that the Consumers Protection Act should be immediately amended. Both, Public Sector and Private Sector should be brought within its purview. Government should immediately come out with certain proposals to encourage the conscious consumers' movement. Without that merely be law, merely be the stringent provision we cannot control these unscrupulous traders who are just like to poisonous snakes.

These are few suggestions. With these few suggestions I support the extension of the Act and I support the provisions of this Act. I know that the measures are coercive but measures must be coercive if we are to deal with a situation like this. With these words, I support the Bill. Thank you, Sir.

SHRI RAM KAPSE (Thane): Sir, with your permission I would like to raise an urgent matter of public importance.

In the vicinity of Kalyan, District Thane, Maharashtra, which is my constituency, gas leakage is reported to have taken place today morning at 8.30 a.m. in the Sulphuric Acid Plant of Century Ryon Company, which is a Birla concern. About 41 workers have lost their lives and 1000 workers met with injuries. I urge upon the Government to make a statement in this regard as the interest of thousands of workers is involved.

Thank you, Sir.

MR. CHAIRMAN: Please make a note of it and convey it to the Government.

THE MINISTER OF STATE IN THE MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION AND MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI KAMALUDDIN AHMED): Sir, we will convey it to the Minister concerned.

SHRI PAWAN KUMAR BANSAL (Chandigarh): Sir, the news given to the House by Shri Kapse is indeed a very sad

one. I think we should all join in expressing our sympathies with the Members of the bereaved families. We would urge the Government to take necessary steps in this at the earliest.

Sir, coming to the Bill, in 1955, the Essential Commodities Act was enacted to provide for regulation of production, supply and pricing of essential commodities. Moved with that salutary objective, that law received the support of all right thinking people in the country. Sir, it was the considered opinion then that considerations of personal benefit and greed should not impel anyone to carry on any avocation to the detriment of society at large.

Sir, as the time passed and we gained experience certain lacunae were noticed in that Act and Amendments have been made thereto from time to time.

In 1981, Sir, it was felt that an extensive amendments made to the Essential Commodities Act of 1955, some of the existing provisions had not proved to be adequate and effective for expeditious disposal of cases for ensuring the availability of the essential commodities at fair prices and for curbing hoarding and blackmarketing of and profiteering in essential commodities. Since a large number of cases were then pending in different Courts and there had been an extraordinary price rise in 1979 and 1980, this Essential Commodities (Special Provision) Act of 1981 was enacted to make temporarily the Essential Commodities Act of 1955 more stringent. It was perhaps felt, Sir, that these stringent provisions need not be incorporated in the Act for good and maybe the situation improves after five years when we could do away with those provision. As we all now know, Sir, those provisions were extended in 1987 and now when it was to lapse again in 1992, we have this Ordinance and the Bill before us to extend the provision for another five years.

Sir, in principle, I do not have any objection to the extension of any provision of law for a temporary period. But experience in this case has shown and I join other

[Sh. Pawan Kumar Bansal]

hon. Members of this hon. House in voicing my concern also that instances are not wanting where salutary provisions of law intended to serve a social cause, a social purpose had been misused, had been mis-applied by the persons charged with the sacred responsibility of implementing the provisions of law.

Sir, there can be no denying the fact and I am sure nobody in the House and outside also would deny the necessity of having a Statute which would be deterrent enough to ensure that no temptation of personal greed whatever impels people to resort to hoarding of essential commodities and to indulge in blackmarketing and profiteering.

As far as these objectives are concerned, a law like this is the dire necessity of time. In this context, I would like even to say that we chose to follow socialism not as defined in quaint text books but socialism which was live and kicking. I would use the term market socialism in which market economy would be directed and guided by socialist planners.

The law dealing with the subject that is before us today, the law dealing with the M& RTP, the law ensuring the protection of consumers, the law ensuring that no commodity is adulterated, was the need of the day; and we do have these laws for us. But I do want to take this opportunity to say that the plethora of laws on the subject, a plethora of what we call the licensing and control orders have really confused the common man, have confused the persons whom you expect to comply with those provisions. And it is absolutely essential I would be candid enough to agree with Mr. Mishra on this score - that what is required today is a comprehensive review of the entire law dealing with the subject; and to come forward with a concise and precise law which would be known to the citizens, which would be known to the people for whose benefits it is made, the content of which would be known to the people who are expected to

comply with that.

Just to say that every citizen of the country is expected to know as to what the law is is not really enough if we want the society to move if we want the society not to retrograde in its action. And it is in this context that I do support that we do need to give a fresh look to the entire subject on the matter and to come forth with a comprehensive law on the subject. It would not really be giving a good account of ourselves if we were to love in an adhoc manner. We adopted this law for five years, then extended it for another five years and then again want to extend it for another five years.

Since I do agree with the basic principle governing the formulation of this law, I find myself really at a loss to argue against the same. But I do feel that if we are convinced that there are certain provisions which have to be on the statute book, I think those provisions need to be made permanent in nature. But experience has also shown us that certain special provisions which were added in 1981 have not served the purpose. When I say, have not served the purpose, I would not like just to disagree with the views expressed by certain hon. Members that if there is a particular provision which has been misused, it does not mean that the provision should not exist at all, but Sir, it should really be an eyeopener for us. And in this context, I would like to refer to some provisions which were incorporated in the Essential Commodities Act in 1981.

In a society advanced, dynamic, moving as ours, we have given primacy to the judiciary, whatever be the grievances. We, the politicians, the bureaucrats, may be grumbling over various things, but where we have a grievance against anybody else, we rush to the court. And I really do not find any rational in providing a provision which says that against the confiscation of property an appeal shall not lie with the judiciary but with the officers of the State.

To inspire confidence in our laws, to inspire confidence in our system, I think it is

the need, it is desirable that the functions of the judiciary vest in the judiciary itself. We have to have confidence in the system. If a person aggrieved against an order goes to the judiciary, I am sure the judge sitting there would also be guided by the social considerations and would not go to the extent of just granting lightly any benefit to the person who appears before the court.

Sir, it has been seen that in certain cases hypertechnical flaws in keeping the accounts, in maintaining stock books have led to prosecution of people. I know of a case where the monthly sale of a retailer of a particular commodity was 10 guinea bags each of which weighs one quintal. In a particular month he could not dispose of 10 quintals and in the meanwhile the supply which he had ordered earlier came in. At one such point of time when he happened to have more than 10 quintals of commodities with him, he was challaned

One basic concept of criminal jurisprudence is that mens rea is a necessary element to prove the guilt of the accused person. I think, there may be many many cases. The statistics were given. I have not collected the statistics. But those gave a very grim picture of situation prevailing because we find that over 95 per cent of the people who are initially booked by petty officers are finally held not guilty.

We must see that there is something wrong with the provision. Now what we have in this case is that Section 12 AA, I would just very briefly like to refer to that, Section 12 AA, Sub-section 1 (b) says that:

"Any person accused of ...
I can understand that.

"... or suspected of the commission of an offence under this Act is forwarded by the arresting officer to a magistrate ..."

And what does this magistrate do? He cannot have his bail application as is done in other criminal cases. He authorises his detention for a period of 15 days, and for-

ward him to Special Court. Subsequently on presentation of his case before the special court, I am happy a provision enabling the setting up of a special court were provided in 1981. There were certain very good provisions also because special courts consist of a Presiding Officer who is competent to be a Judge of the High Court or has been a Sessions Judge or Additional Sessions Judge for a period of at least one year. The poor senior judicial Officer applies his mind to the case. But what happens before that period? A person, even suspected of committing an offence has to remain behind the bars for 15 days because of the whims of one officer who arrested him on mere suspicion. What mental agony would be caused to him? In certain cases as it was pointed out earlier, all the partners active, sleeping, aged, infirm, men, women could be arrested. If these instances have come to our notice, I think we have got to do something about it, Sir,

It was very rightly pointed out by you when you were making your speech that it is some irritants only which have caused the problem. If with an open mind we can remove those irritants? We need not be very particular about the form of the law. What is important is the content of the law. We have seen that certain provisions which were added in 1981, have worked to the detriment of the honest people, have caused harassment to the honest traders and should be removed. If certain provisions, which we feel have stood the test of time, need not be kept on the statute book temporarily and could be incorporated by a regular statute amendment. As such they could be brought in and be part, the main part of the Essential Commodities Act 1955. It is this which made me reflect over what Jefferson said that the best Government is one which governs least.

I know that the intention of the Government is, as such not to cause any harassment to any person. Laws are there to serve a particular social purpose. The Government whether the Central Government of the State Government constituting the political leadership cannot be aware of each

[Sh. Pawan Kumar Bansal]

and every case of harassment. But, then it becomes the responsibility, it becomes the duty of the Government that once certain cases are printed out, when certain malpractices do come to the notice of the Government, certain corrective measures are thereafter taken. That is the responsibility of the Government and I would urge the hon. Minister to call the representatives of traders, to call a meeting of the consultative Committee of Members of Parliament attached to his Ministry and those who are interested in the subject who would be willing to study and discuss the matter to put our heads together and arrive at some conclusion where an appropriate decision could be taken.

Before I conclude, I do want to go back to one of the reasons which led to the enactment of the Special Provisions law in 1981. That was the unabated price rise that year. As we know now, the list of essential commodities includes items, the price structure of which is governed not by the individual, not by the trader, but by the Government. We have also seen that in the case of products like petroleum, paper and drugs, it is the governmental decision which has from time to time lead to the increase of the prices N.P. If we are working in that scenario it will not be prudent for us... and I was sorry to find some observations being made from the different sections of the House, which will not be prudent.. and it is not just for us to paint the entire trading community by the same brush. It is not right on our part to say that perhaps all the ills of the society are because of the trading community. I do not want to cast aspersions on anybody else. A reference was made to one of the governmental organisations, the Food Corporation of India. We know what is going on there. We also know that no perceptible or tangible steps have ever been taken to see that a body as big as that really serves the avowed purpose for which it was set up. If this is the situation in which we are working, and when we know that the trading community has indeed made a contribution which is not insignificant for the growth of the economy

of the country, it will not be wise on our part ... I repeat ... to add emphasis on this — to pass the buck on to the trading community. We have to realise their role. We always take pride of the very rich trade routes that China and India had centuries back. That spirit to recognise importance of trade has to prevail. It is with that spirit that we have to look at things, and I am quite sure that we all want that a most stringent law should be there on the statute book for the black sheep. But at the same time, I want that no lacunae in law should provide a lever, or provide a handle to the unscrupulous petty officer anywhere to arrest honest people to bring on them untold misery or cause mental agony, which subsequent acquittal will not be enough to undo.

With these words I do support this Bill, but I do at the same time want take this opportunity to urge the hon. Minister again to look into this matter a fresh so that one consolidated Bill could be brought on the subject.

SHRI RAMASHRAY PRASAD SINGH(Jahanabad): Mr. Chairman, Sir, a disussion is going on here on Essential Commodities (Amendment) Bill, 1993 and alongwith it , there is a Resolution of Shri Nitish Kumar also.

First of all, I would like to say that the Act is being amended and a provision for more punishment has been made. I would like to know the reasons behind enhancing the punishment. In this Bill, no matter whether a punishment is minor or major, it gets implemented only when the ruling party implements it honestly. Whenever democracy is misled in the world, a state of anarchy takes place and the same thing is happening here.

Mr. Chairman, Sir, the Government is attacking the hoarders and we are with them. But why this hoarding is not decreasing ? It is increasing day by day. Just now an hon. Member said that we support the hoarders. You also favour the big businessmen. They are getting support from one side or the other. You yourselves protect them,

otherwise there would not have been so much of black money in the country. Had we followed the proper concept of democracy, we would not have lacked moral values. But today our democracy is leading towards a wrong path. The reason behind this is that the ruling party is having connection with big businessmen so that they can get funds for their elections. There is no account from where all this black money is coming. The Government should state why the Act is not being implemented. There is maximum punishment under it. Death sentence is given under section 302 of I. P. C., but people are not afraid of it and murders are taking place everyday. What is the reason behind it. If the people will be misled and a publicity will be made in the newspapers that the Essential Commodities (Amendment) Act has been made like this, it will have the same effect as that of the Section 302 of the I.P.C. So please purify yourselves so that democracy could be purified. Democracy is based on truth and religion. Until and unless democracy is brought on the right path, this law cannot be implemented.

Mr. Chairman, Sir, spurious drugs are being manufactured and sold in the country. A law was enacted that the drugs will be tested but even then there is no dearth of spurious drugs in the matter. Who will reply as to why these things are happening? I say why we should waste paper when the law will have no effect? Nothing can be gained from it. Sir, the poor are not getting even 5 per cent commodities from the fair price shops set up under the public distribution system. What do you think about that? In a meeting, I told the collector about it and he said that he would make it available to the poor. How will he make it available? When a poor man takes a licence, he has to sell the jewellery of his wife. He has no other option. You have ruined this country for the last 44 years and this is the result of it. The terrorist activities in the country are also taking place due to it. First you should bring the democracy on the right path. There will be need of a new law, if the old law becomes effective. New laws are enacted, when the old law becomes ineffective. You enacted the TADA, as the people were not afraid of

the old Act. All the big as well as the small industrialists pay their taxes. But sometimes wrong treatment is meted out to some honest businessmen. Such a case has taken place in my constituency also. A businessman named Shri Mahesh Prasad was honestly running his business, but he has been implicated in a false case. How can he work honestly after this? The State Government is paying no attention to this case. This case relates to payment of sales tax. The State Government should be asked why that honest businessman is being harassed unnecessarily. If a businessman wants to remain honest, the officials do not let him do so. They want money of the order of Rs. 10 lakhs to Rs. 1 crore as bribe. Until you improve this situation your speeches will only deceive the country. Do not deceive the country again and again. This will have wider repercussions. So, we will not oppose this law, but will say that this Act will also not be implemented in its real sense. This Act has been enacted for false publicity and will enable the police to harass the small businessmen and help them make more money. This is not going to check hoarding, black money or manufacturing of spurious drugs. Until the Government becomes honest this Act cannot be implemented properly. The Government does not abide by the oath it has taken, this Act cannot be implemented. With these words, I conclude.

SHRI MOHAN SINGH (Deoria): Mr. Chairman, Sir, I share the views of Shri Shyam Bihari Mishra.

Sir, I was giving a serious thought to the statement of objects and reasons of this Bill. The Union Government did not give any reason as to under what circumstance, short term measures are being put on the statue book. In 1982, when this Act was being passed, the Union Government stated in this August House that the country had to face severe drought in 1980 and near about 60 per cent of the crops were destroyed. As a result, there was acute scarcity of essential commodities and this gave rise to hoarding, black marketing and profiteering. The Essential Commodities Act, 1955 could not face that challenge and so, under special

[Sh. Mohan Singh]

situation, these special provisions were being implemented after amending the Act. The same argument was advanced in 1987. Further, it has been mentioned that this Bill has been introduced in the House as there is shortage of essential commodities in the country. Therefore this ought to be further extended for a period of five years. Today when a discussion is going on the Bill the Government of India is praising itself that India has become the top sugar producer in the world. This year our country has produced one crore thirty three lakh tonnes of sugar. Three days back our Prime Minister has claimed in this House that this year the rainfall and the climate has been so good that there would be no need to import wheat. We have adequate buffer stocks of wheat. If food-grains stocks are in such a good position then what are the circumstances which have forced the Government to make permanent an arrangement which had been introduced for a short term. Hon. Minister has not given any clarification while introducing the Bill in this House.

I would like to submit that this short term arrangement should be adopted as such and it should not be made a permanent feature since in my opinion it is a weapon for exploitation of businessman. There are two types of businessmen in our country. I am not advocating those businessmen whose advocacy was being done by our hon. Member Shri Shyam Bihari. Only two percent businessmen would be involved in black-marketing, hoarding and profiting. The remaining ninety-eight percent in my opinion are not businessmen but professionalists. They adopt this profession just to make their both ends meet and to get an employment and the large number of victims of this Essential Commodities Act belong to this 98% category.

Already eleven-twelve Inspectors viz Sanitary Inspector, Income-tax-Inspector, Labour Inspector... (Interruptions)

Kindly listen to me. Neither I am interrupting you nor I am opposing you.

A number of Inspectors were already there to create hurdles in business activities and only one Inspector had no connection with it and that was police Inspector. Through this Act you have empowered that Inspector also to create hurdles in this field. If some influential person is displeased with any small trader due to misbehaviour or any dispute, he would easily get a case registered against him with the help of the Station House Officer. Bail can be granted under other Acts but the offence under Essential Commodities Act, is unbailable. He would have to go to High Court and to get bail from a High Court, a trader should have enough financial resources. Not only that, all his goods would be seized and deposited in the police station. In the Police Station, all his goods would either get rotten or stolen. If at all his goods would be returned to him, whatever leftouts would be there would be returned to him. These are the problems which confront the businessmen and for which no solution has been suggested in this Bill.

Therefore, I would like to request the hon. Minister that he should reconsider this idea of making this temporary arrangement a permanent one. The Act of 1955 had been enacted keeping in view the prevailing specific circumstances. At that time there was scarcity of essential commodities in the country. There was shortage of cloth and the essential commodities were provided to the common man through Fair Price Shops after import.

This year Government has increased the quota of open market sugar to 60% that means about 78 lakh tonnes of sugar would come in the open market that too under the present policy of the Government. The total consumption of sugar in the country was 95 lakh tonnes during the last year. An hon. Member rightly remarked that the sugar produced in this country do not get consumed in any other country. Foreigners do not buy this sugar. So we should produce sugar as per the requirements of our country. Then how do you expect that the sugar would either be hoarded or black-marketed.

I think that this Bill has not been a result of long term planning. Therefore, I would like to Government to reconsider this Bill. I think a Parliamentary Committee should be constituted to reconsider all the sections of the Essential Commodities Act, 1955 in the light of changed circumstances and introduce a Bill in a new form because the Government seems to profess that it is following liberalised policies and in a bid to follow liberal policies, it has rendered COFEPOSA Act in effective, a Act which was useful in the conservation of foreign exchange in this country and to check smuggling. Now a person can earn money through any means and can bring 5 k.g. of Gold and one quintal of Silver. But if a trader keeps one or more quintal of food material extra in its stocks Government has legislated so many laws to check him.

Therefore Sir, whenever any new law is enacted, the intention behind it should be to check the tendency of blackmoney. I support that the different means through which the traders exploit the society should also be checked but at the same time I oppose the black laws which seem to harass the small traders, who work to earn their daily meals.

Therefore the Government think that it is following the policy of liberalisation, by allowing inflow of foreign exchange and by allowing N.P. Is to set up industries without any licence and Government of India would not ask about the source of income which is invested in the industry. But it can enact all types of laws to harass businessmen who pay all Government taxes and sale-tax and are following all laws of the country. Government should reconsider in the light of changed circumstances and through this amendment Bill, I would make this demand. I conclude and thank you for giving me an opportunity to give two suggestions.

[English]

16.48 hrs.

SHRI A. VENKATA REDDY
 (Anantapur): Mr.Chairman, Sir, I support

the Bill of 1993 and I wish to give some suggestions to the Special Provisions Act of 1981. The public distribution system cannot be dispensed with altogether in view of the Government 's commitment to the weaker sections to provide then essential commodities very easily and in a fair manner.

Sir, I submit that the appellate powers against confiscation orders are taken away from the judicial authority and are given to the executive authority, that is, the State Government. The executive authority misused the powers and misusing these powers so extensively that the public at large have lost the confidence in its impartiality. Section 6(A) of the Act of 1955 empowers the executive authority with the power of confiscation by providing an appeal to the judicial authority, but it is Committed by the Act of 1981 and provided an appeal to another executive authority, namely, the State Government. It is very unjust and the rule of law is not maintained. The confidence of the public is shaken and the confidence of the public should be restored. The contravention of the Act regarding simple commodities the authorities are seizing all the food commodity. which is not warranted. The Act of 1955 provided that the offences were bailable, but under the amendment of 1981 it is made as non-bailable.

There seems to be a lot of harassment of the dealers the enforcement authorities. This provision ought to have been omitted. Many hon. Members have spoken regarding amendments to 1981 Act. We will be losing nothing even if the provisions of 1981 are amended.

I submit some of the special and stringent provisions of 1981 Act may be amended by bringing forward a separate Amending Bill in the ensuing Session. I hope and trust the Government will consider those suggestions and to the needful in future.

[Translation]

SHRI GUMAN MALLODHA (Pali). Mr. Chairman, Sir, while expressing their view

[Sh. Guman Mal Lodha]

on the Essential Commodities Bill, all the hon. Members, barring an exception, rising above party politics, have condemned the effort being made for extending the special provisions such as non-bailable offence, summary trial, absence of appellate rights with the judicial authority, total confiscation etc. for a further period of five years. Almost all the hon. Members were of the view that in view of the Government's policy of liberalisation, free trade and free enterprise and introduction of element of competitiveness in business and the complete reversal of the previous social control policies, the provisions of the present Bill are not in accordance with my thinking. When Shri Bansal and another hon. Member of the Congress, Shri Sharad Dighe and all the hon. members of Janata Dal unanimously supported the suggestions made by the BJP that these three provisions of this Bill which are stated to be deterrent provisions, should not be included, I fail to understand why these irritants are not being excluded from it and why the hon. Minister is adamant on making it a prestige issue to include these provisions in the Bill for another five years?

It is also an irony that these provisions are stated to be made stringent, whereas in the Criminal Procedure Code, not more than three months imprisonment can be awarded in a summary trial. In the Essential Commodities Act of 1955, there are provisions under which imprisonment upto 6 months, 2 years and 7 years can be awarded but under the summary trial, there is a mandatory sentence of three months. So, this provision is in contradiction of the existing provisions which has led to a creation of a legal anomaly.

I would urge the hon. Minister to consider whether this legal anomaly is sustainable. When there is a provision of 7 years' imprisonment under section 37 of the principle Act, then how can there be a summary trial? Our judiciary has always been powerful and under the summary trial, statement is not recorded and only a very brief record of the statements made by witnesses is

recorded and a summary judgement is given. There are no appellate rights which is again against the spirit of our judicial system.

Therefore, I would like to submit that provision of summary trial should not be made. What an irony that if a Government official or a public servant misappropriates lakhs of rupees of public money, his offence is bailable under the provision of Corruption Act. And if a small businessman shopkeeper shows even one matchbox less in his stock or enters inflated price in the price list, he would be liable for punishment. Such small businessmen neither can afford staff for this purpose nor can fulfill these formalities. Neither he can keep register, nor complete record or can afford staff for making changes in the price list. They are not in a position to get that paper work done. So 80 per cent small businessmen could be convicted as the offence would be non-bailable. In such a situation, they have to remain behind the bars. It is against the principles of social justice and the provisions of the Constitution. The Government want to impose unnecessarily a lot of restrictions on the small businessmen.

I would like to draw the attention of the Government to one more anomaly in this Bill. In addition to summary trial and non-bailable offence, there is a confiscatory provision in this Bill. If a shopkeeper keeps stocks of iron, wheat, soap or cloth in his shop, his whole stock would be confiscated and he would have no right to judicial appeal. He can appeal only to a Government official. So, it is an attempt to bring in administrative dictatorship. I think it is not proper. I would like to request the hon. Minister, who has recently took over the charge of this Ministry that there is no need for extending this temporary provision repeatedly. If it is required, come with a permanent statute. As my friends advised, constitute a Joint Parliamentary Committee or a Select Committee to examine all the provisions of the Bill afresh. Only after that, a law should be enacted.

The Government has issued 111 or-

ders under section 3 of the Essential Commodities Act and under each order, these are 12, 15, 20, 25 sections containing rules. Under these rules, these are many administrative notifications. How could a small businessman follow all these things? If a small mistake is committed unwittingly or a rule about price checking is violated by the businessman, his life would be ruined forever.

As a consumer, I would like to submit that apart from the vulnerability of a businessman to the plethora of rules, what is the fate of the consumer? The statistics provided are revealing in so far as the fact that out of 1 lakh 86 thousand persons, only 200 were convicted. As far as the statistics for the year 1990-91 and 1991-92 under the special provisions are concerned, the percentage of convictions is only 05. The Government is, ultimately harming the interests of the businessman as well as the consumer by spending huge amounts of money for maintaining inspector and control raj and creating so much terror. The burden would ultimately fall on the consumers. So, on behalf of the consumers of the country, I would like to appeal that these draconian provisions **7.00 hrs.** of this black law should be withdrawn. To say that all the State Governments have supported it, is not an argument in itself. I know this thing and the hon. Chairman and the hon. Minister also know that there is no objectivity about the laws which are passed for cheap popularity. These laws are passed because they appeal to the people. But atleast, the Central Government should rise above such petty gains and consider as to how larger number of people get benefit of these laws.

I submit that as Shri Bansal and other hon. Members have said, almost the whole House is unanimous on this issue, only one of my communist friend opposed it and compared the businessmen with black venomous snakes. He can say so in this House but when I visit Calcutta, the big industrialists of the city say that they have no problems because of their relationship with Shri Jyoti Basu. Just now, you have informed that 1000 persons have been

hospitalised and nearly 40-50 persons died due to gas leakage in Birla Industry at kalyan in Bombay. The Government is not concerned about that. So a big tragedy like Bhopal gas leakage has not become non-bailable offence. Its owner was allowed to go to America and he is still there and has not been brought back to India. But in justice is being done with the small general merchants matchbox sellers, betel leaf sellers, cloth merchants and turmeric powder sellers by imposing plethra or rules against them. It is not in accordance with concept of social justice. Therefore, I would like to submit that as Shri Mishraji said that it is need of the hour to repeal this black law to uphold the spirit of social justice as enshrined in the Preamble of our Constitution for safeguarding the interests of our consumers and commanman of the country. This is not a question of continuing or withdrawing the provisions of the Act. Here a new Act is being enacted. It was enacted in 1981 for 5 years. It lapsed in 1987. In 1987, it was again brought for 5 years. Today, the Bill has again been brought for extension for further five years. The modus operandi is the same as it is being adopted in the case of Article 370. In the Preamble of the Constitution as also in our Statutory Acts it has been stated that this is a temporary measure, but what sort of temporary provision is this which is extended after every five years.

On the one hand the Government says that situation is normal. We are exporting rice, wheat and sugar. Moreover, we are going around the world harping about the self-reliance of our economy. But when such a black bill is introduced in the House, the Government justifies it on the pretext that it is necessary to do so since there is shortage of those materials and that it is also necessary to check the black marketing and profiteering. I would like to submit that we all are there with the Government to wage a war against blackmarkeering and profiteering. But the point is, these catchy, attractive and populist slogans should not be used as a means of imposing injustice on the lakhs of people of India. So I would like to appeal in the name of social justice that

[Sh. Guman Mal Lodha]

the four provisions regarding summary Trial Non- Appeal, and non-bailable etc. should be removed and the matter should be referred to a committee. I think this should not be made a prestige issue.

Almost all the political parties are expressing a unanimous view in this regard. You have in a way endorsed to whatever has been said in support of the Bill by the hon. Members, Shri Nitish Bhai, Shri Misraji and by me also. To put a check on the abuse of the law, its intents should be altered or at least there should be some amendments therein.

I, therefore, support the Statutory resolution of Shri Nitish Kumar opposing the Ordinance and oppose the Bill. I oppose the proposed extension of the Essential Commodities (Special Provisions) Bill, 1981. I am confident that the new hon. Minister would give a new dimension to the law and would open up a new horizon. Moreover, I hope, he would for the sake of Social justice, consider the issue with objectivity.

[English]

SHRI A. ASOKARAJ (Perambalur): Mr. Chairman, on behalf of my Party, the All India Anna DMK, I would like to say a few words.

The Essential Commodities Act, 1955 was promulgated to ensure easy availability of essential commodities to consumers and to protect them from exploitation by unscrupulous traders. It is said that the Government is committed to extend the Act to protect the interest of the consumers.

There are two lobbies. Firstly, the consumer groups who are campaigning for stringent measures against black marketeers and hoarders and secondly, the trading community, which complains that the Act is draconian and has been used by State Governments to harass them. In the last ten years of the working this Act has helped by enabling Governments to ensure

an uninterrupted supply of essential commodities to the people, especially in times of shortage or market dislocation due to various reasons. The tendency of some sections of the trading community to take advantage of such situations is well-known and the need for the Act has to remain on the statute books. The Advisory Committee on Public Distribution System has, in fact, demanded a stricter implementation of the provisions of the Act.

There is a case for softening some of the more stringent provisions of the Act, which have been abused by Governments and individual officials. Most of the complaints against the Act relate to the provision for summary trial in special courts, imposition of minimum three months' imprisonment, seizure of entire stock of a trader even if the violation of the Act pertained to only one commodity, declaration of the offences under the Act as non-bailable and the denial of the right for judicial appeal. Many of the problems lie at the level of implementation. These cannot be removed by changing the provisions but only by administrative measures.

The Essential Commodities (Special Provisions) Amendment Bill, 1993 is seeking to extend the life of the parent Act by another five years. It is also seeking to insert a new section to provide that no officer below the rank of an officer in charge of a police station or any police officer authorised by him in writing shall arrest a person accused of committing an offence punishable under the Act. With a view to deal more effectively with persons indulging in anti-social activities like hoarding and black marketing and the evil of vicious inflationary prices, the Essential Commodities (Special Provisions) Act 1981 came into force on September 1, 1982 for a period of five years and was later extended by another five years.

Due to lack of awareness the consumer was not getting full advantage of the three tier redressal machinery already provided for in the existing Act. There was an urgent need to educate the consumer with regard

to the redressal machinery. From the fact that 82 per cent of the cases decided by 361 district forums already working throughout the country had gone in favour of consumers showed that consumer interests were being protected effectively by the redressal agencies. The only thing which needed to be given a boost was creating more awareness among the consumers.

I understand the Federation of Indian Chambers of Commerce and Industry has suggested that the Bill to extend the provisions of Essential Commodities (Special Provisions) Act by another five years should be referred to a Select Committee of Parliament. It also said that the Bill had evoked wide-spread discontent in the business community as they feel that the Bill was draconian in nature and had created avoidable harassment to the traders.

It has been invoked even in the case of minor technical offences. Lack of any provisions formens area has further compounded the woes of the trading community. Shri Bansal also pointed out this. In most cases immediately after inspection of the shop the traders are arrested and they have to remain in jail for a period generally ranging from 1 to 7 days or even more. They may be exonerated from all the charges but they have to undergo tremendous mental agony and embarrassment. The Hon. Minister should look into all these things.

And the last but not the least point is that rice is one of the essential commodities. I am sorry to point out that the Central Government has already raised the prices of rice. And because of this, the State Governments had to raise the prices accordingly. So, the Tamil Nadu Government has to incur an additional expenditure of Rs. 50 crore, in addition to the expenditure of Rs. 350 crore. That is why, our hon. Chief Minister of Tamil Nadu, Dr. Puratchi Thalaivi had insisted saying that whenever the Central Government raises the prices, before that, the State Governments should be consulted. I would like to make this point specifically and specially because the Members of Parliament, even from Congress, are saying that

in Tamil Nadu, the Government had raised the prices whereas the Central Government had already raised the prices here. So, I would request the hon. Minister that in future at least, before raise the prices, he must consult the State Governments.

PROF. UMMAREDDY VENKATESWARLU (Tenali): Mr. Chairman, Sir, the Bill seeking to extend the period of operation of the Essential Commodities Special provisions Act of 1961 for a further period of five years with effect from the first day of September 1962, requires a much more comprehensive dealing before it is passed. The Act oversince it has come into existence in 1955, was mainly meant for looking after the welfare of the consumers, with regard to its production, supply, pricing of all the essential commodities. So, it is a welfare measure basically, to protect the interests of this particular category. In the course of implementation, we have been observing, and now in this August House we have heard several hon. Speakers expressing their views as to how it has taken altogether a different direction than what it has been meant for all these years. This Act which wanted to protect the interests of the consumers has created a new category of bureaucracy, particularly in the Civil Supplies Department. Most of the posts are vested with the vast powers and are charged with responsibility of protecting the provisions of this Act, but each post has been priced and tagged. To get a posting in the Civil Supplies Department, political pressure is mounted since it is a coveted post and a priced post.

Sir, in the process of the implementation of the total provisions of this Act, though the Act was meant for taking stringent and deterrent actions against a section of the traders who are unscrupulous traders, but in the implementation it has assured the dimensions of an irritant state.

It is causing a lot of nuisance also in the society, while it wanted to protect the interests of the consumers. Actually, instead of protecting the interests of the consumers, it has been more in the shape of harassing the

[Prof. Ummareddy Venkateswarlu]

In this particular Bill, there is an amendment, 10 AA.

traders. The traders and consumers need not be looked as two different sections because each section is dependent on the other. Unless the trader renders some sort of service to the consumers, the total machinery will not function in a comprehensive way.

In this Bill, there are certain irritant provisions which our learned colleagues have been, time and again, mentioning. As far as the indiscriminate prosecutions with non-bailable sections are concerned, statistics have revealed that hardly 0.05 per cent of the total people who have been prosecuted for several reasons, have been accused. Finally, for the sake of 0.05 per cent people who have been finally accused, about 99.95 percent have also been harassed. This amounts to one in two thousand people who are finally accused; and for want of this one person, about 1999 people are being harassed. This is not in the interest of the cycle of trade and supply. This is to be looked into and it is not advisable to vest so-much of powers with the officers.

Secondly, with regard to the confiscation of stocks when some of the illiterate and innocent traders indulge in a petty misappropriation or any such thing, the total stock is confiscated and kept at a place for months together thereby the quality of the stock gets deteriorated and the value is lost. It is not known who is to be held finally responsible for the loss of value and for the deterioration of the quality of the stocks; also for the loss of total value of the stocks.

Third thing is the publicity part of the total activity. When a trader is on a small and petty offence, he is arrested and prosecuted and a big publicity is being given in the Press. Who has empowered the officers to give so much publicity by going to the Press and defaming all the traders; defaming the traders' class? It is not known. As long as they are not finally termed as offenders and finally accused of 'deviators' from the provisions, there is no necessity to give so much publicity and call them as culprits.

It says:

"... no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act."

There are two aspects which I want to tell; one is they say, 'officer who is authorised by the officer in charge of the police station on behalf of him in writing'. So, the police constable will always have a chit in his pocket, having the authorisation from the officer in charge of the police station and he will be going on arresting these people and foist cases under non-bailable sections. This non-bailable provision is to be deleted and bail granted immediately and the appellate authority should be judiciary and not the Government.

Ultimately, it boils down that even a police constable can arrest anybody under a suspicion. Here it is not accusation. It is an allegation in the first instance. Even at an allegation stage, they have been arresting these people and prosecuting. It is not desirable. Since there are several lacunae in this Bill, I urge upon the Government to have a comprehensive view of the total Act, if necessary, by referring this Bill to a Select Committee and come back to this House with a comprehensive legislation.

SHRI SARAT CHANDRA PATTANAYAK (Bolangir): Mr. Chairman, Sir, I rise to support the Essential Commodities Amendment Bill, 1993. The Bill shows the determination of Government to ensure distribution of essential commodities to all sections of the society, especially to the weaker sections. To revamp the Public Distribution System along with the Essential Commodities Amendment Bill, no doubt, would take care of the interests of the weaker sections.

Coming to the provisions of the Bill, it is

heartening to know that the Government is committed to take drastic steps against the hoarders and blackmarketeers. There is an urgent need to monitor the drive against the hoarders. The PDS is the concern of the State Governments. It is the State Government who should be persuaded to take suitable measures. For example, the rice supplied to State Governments under the PDS changes its colour when it reaches to the consumers in the rural areas. It is happening in my constituency, i.e. Bolangir. Government should look into it. I request the hon. Minister to see that they should open shops in weekly markets.

I must congratulate the hon. Prime Minister and the Minister for Civil Supplies for making a provision of special court to deal with such offences. What is needed is an expeditious trial and decision. There should be a time-bound trial procedure. The procedure for filing complaints in such courts should be simplified.

The help of voluntary organisations engaged in consumer protection activities should be encouraged so that the purpose of setting up such court would be served fully. As regards the provision for punishment, it should be more stringent. The minimum imprisonment should be six months instead of three months, as suggested in the Bill.

The resolve of the Government is evident from the scope of the Act that the arrest of the offender under the Act is non-bailable. There the bail petition should be heard by a special magistrate designated by the State High Court. Further, if a person is convicted twice under the different provisions of the Act, he should be jailed for a longer period.

The reasons for which the Act was enacted earlier still remain valid. When the country is threatened externally and internally, and the present Government's bold initiative on development and changes are being challenged, it is right time to extent

enforcement of the provisions of this Bill to strengthen the socio-economic development process in the country.

[Translation]

SHRI SURYA NARAYAN YADAV (Sahasra): Mr. Chairman, Sir, I support this Bill. I support it because I remember that we were living in the village at the time when this Bill was for the first time introduced in the House and which was made into an Act later on. People often talked of this Act to be a very good one since they thought that now action would be taken against the persons indulging in malpractices on the complaints lodged by them. The Act was proving useful on the block and district levels. Malpractices were checked. It is however, right, as was being said by our hon. colleague, that there has been an abuse of this law as a result of its being in existence for quite a long period. Laws are enacted but their use or abuse depends on the persons who implement. Moreover, how can we run the country without enacting laws. There is no law enacted under Constitution that has not been misused. Should there be no law at all on this ground? No. Laws are actually, necessary, the Government has introduced this Bill seeking to extend the life of the Present Act by another five years, I, therefore, support it.

Sir, Mr. Lodha was just saying that this legislation should be abolished for the sake of social justice. I would, however, like to submit that this legislation is important to be there for the sake of social justice. It is extremely useful for the people living in rural areas of the country. If there are no laws the big traders would never allow the small traders to do business. I would call them thieves who are afraid of laws. It is extremely unfair when a thief says that a particular law has been made for his protection. I would, therefore, simply submit that it is necessary to formulate such a law. This Bill holds importance for the people belonging to rural areas. This is because if a big trader indulges in malpractice, he then might be sent to jail and would not be granted bail.

[Sh. Surya Narayan Yadav]

Therefore we need not worry if we do not indulge in malpractices.

Mr. Chairman, Sir, I support this Bill and conclude.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Mr. Chairman, Sir, I fail to understand as to why Shri Nitish Kumar is opposing this Bill. Every party is having Government in one or the other State. Though Bill is passed by the Central Government, actually the State Governments are the real agencies to implement it. The B.J.P. may now oppose it but it had supported the Bill when the party had been ruling in four states. Since the B.J.P. does not have its Government in any of those states, it is opposing the Bill. If those State Government had survived, the B.J.P. might have supported this Bill.

AN HONOURABLE MEMBER: We have been opposing the Bill since the last year.

SHRI SYED MASUDAL HOSSAIN: However, I would like to ask the Government whether we really need this law? The Government should enact a Comprehensive Act covering every point in it, since there are already 16-17 enactments under the Essential Commodities Act. The Government should put all of them together to make one comprehensive Act so that both the Government and the traders may be convenient to work.

Mr. Chairman, Sir, I am a strong opponent of the traders about whom Shri Misra ji of the B.J.P. was expressing his views. I, therefore, submit that there must be an Act like this. While expressing his views, Misraji said that Rs. ten thousand has to be given as bribe for each of the 18 licences that are being given. After taking one lakh eighty thousand rupees as a bribe, they worship and serve the people, they construct schools, inns and temples. They cannot provide all those things with the genuinely earned money. For those persons, there must be a

provision in this law. The fact remains that this law applies the most on small traders. Your statistics prove that the provision under which the small traders are caught, could be abolished through an amendment. The problem is that Government has added a small word in the contents of the law. I would submit that all these things should not be there.

[English]

In the expression not below the rank of an inspector or an authorised person.

[Translation]

The term " or an authorised person" should be deleted. If the initial part of the provision is kept, the inspector would feel shy of going to small traders, he would rather prefer going to big traders. He would go to them to export big amount from them and the small traders would as the hon. Member said, have to face prosecution for not accounting even one match box.

The second point is that the law is made effective for a period of five years alone. Law should actually be permanent.

17.3hrs

(MR. DEPUTY SPEAKER *in the Chair*)

If there is no theft then there will be no Section 379 in the I.P.C. and a particular section will remain no more applicable? Repeated introduction of the same law is not good. It should be made permanent and the term " authorised person" should be deleted. With these words, I conclude.

SHRI TEJ NARAYAN SINGH (Buxar): Mr. Chairman, Sir, this Bill has been brought here to prevent black-marketing. Earlier, this Bill has been passed for five years and again it has been brought here to extend its period. One thing should be clear that this Act should also be made permanent like IPC and Cr. It is not proper to bring this Act after every five years.

Now the question is whether this Act

should be imposed on big merchants or on small merchants. There are a lot of small merchants in our country and if they are brought under this Act, then it will create a problem in the country. If this Act is made effective against the big merchants, it may solve a number of problems. But it appears that this Act in its present form as has been presented in the House, will hit mostly the small traders only and the big traders will be out of the purview of this Act. So, in my opinion, this is an ineffective Act and that is why it needs a lot of rectification. If this Bill is passed, it may create big problems in the country. According to this law, even a person having 5 bags of sugar or 10 tins of Dalda is likely to be prosecuted. This will be the situation. But, if this Act is imposed on the big merchants, who store ten thousand tins of Dalda or two thousand quintal of goods, it will solve a lot of problems in the country. But so far as I understand, this Act will destroy the small merchants only and so, it is necessary to bring this Act in a proper form.

According to the land Ceiling Act, a farmer can have 15 acres of land. He will produce 300 quintals of foodgrains on that land. If such farmers are also covered under this Bill, they will be in crisis. So there is a need to add a provision in this Bill fixing a certain limit of storing goods for the farmers so that they may not be subjected to any sort of harassment. I understand that no such limit has been fixed in this Bill and that is why, there will be no use of passing this Bill.

In view of the prevailing Public Distribution System, if a shopkeeper, whether he is a rich or poor, sells his goods at more than a fixed price, he is liable to be prosecuted but I would like to state that a particular group of these traders is untouched because they give proper Commission of Rs. 30/- or Rs. 40/- per bag of sugar and Rs. 200/- per drum of kerosene oil to the officials. That is why this group is free to commit such wrong doings. In fact that particular group is responsible for the blackmarketing of the essential goods that is why it is much essential to make a provision in this Bill to

arrest such type of persons. Thus the present Bill needs amendment so that the persons responsible for such misdeeds may be arrested. If somebody says that small traders are also involved in blackmarketing then I say it is wrong because he himself is not involved in blackmarketing but he is forced to do it and the officials from top to bottom get their due share out of this money earned through blackmarketing. He has to give to some-one Rs. 10, to some-other Rs. 20 or Rs. 30 as bribe. Some officials charge even Rs. 100 per bag. I do not think that there is even a single officer who does not take bribe. So, under these circumstances, why the dealers only are held, why the officials are untouched under the existing provision. That is why I would like to state that all the officials including Regional Officer, D. S. O. and District Magistrate responsible for blackmarketing should be brought under the purview of this Act. But they are not covered under this Act, as they are protectors of this law. So, to remove these faults, some more amendments should be made in this Act.

Another point I would like to submit is that if this law would have been meant only for the big traders even then it could have been made non-bailable, but this has been brought by the Government for the small traders and therefore, instead of non-bailable, it should be made bailable.

Thirdly, a provision for appeal should also be included in this law. Absence of this provision violates the provision of the Constitution. People from lower levels to upper levels should have the right to go according to the procedure. In the present Bill the Government has not given this right and has put restrictions on making appeal. This I consider as against the spirit of the Constitution. That is why, this Bill should not be passed.

Another provision made in this Bill is that the right of summary trial, which was earlier given to the judicial magistrate of the D. M., is now given to the Session Judge. The Session Judge sits in the district. If a small trader is caught under this law, he will

[Sh. Tej Narayan Singh]

have to pay fee to the lawyers two-three times more, because the fee charged by the lawyers of district courts in two-three times more than the fee charged by the local lawyers. This will totally destroy the small traders. So, the earlier system, according to which the right of summary trial was given to the judicial magistrate, should remain as it was there previously in this Bill. Otherwise, the possibilities of misuse of this law will increase.

So, I would request that this law should be enforced on big traders only. Secondly, this Bill should be reviewed and brought in a new form. There are several lacunae in this Bill and therefore, it should not be passed. With these words, I conclude.

SHRI DUTTA MEGHE (Nagpur): Mr. Chairman, Sir, first of all, I would like to congratulate the Minister of Civil Supplies, Shri Antony for his presentation of this Bill in the House. We have seen that laws are formulated here for the entire country, but they are implemented by the State Governments in their respective States. In the prevailing circumstances, the small as well as the big traders from villages to cities indulge in blackmarketeering, so they should have the fear of law.

17.40 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, Sir, earlier a law was also formulated in this regard, but when the time came to implement it, nothing was done. Cases were filed and people were caught, but they were not taken to the court and given punishment. The law is actually not implemented. As, I was a Minister of Civil Supplies in Maharashtra, I know about it. The loopholes in this law are due to the bureaucracy. So there should be a provision of punishment for the officials also the inspector who goes for checking should also be punished, if his case does not come up to the court.

Mr. Deputy Speaker, Sir, the Government spends crore of rupees on the public distribution system. Through this system,

it provides wheat, rice and other food items on cheaper rates to the people throughout the country. But several mal-practices take place in this system due to the employees. So, I would urge that the officers and employees, who look after this work, should also be given punishment if they are found guilty. As the trader jailed for 3 months, similar punishment should be given to the Inspector also. It is very necessary to punish the big traders who violate the law.

Mr. Deputy Speaker, Sir, we have seen in Bombay that the employees, who transport goods from the godowns, pilferage thousands of bags and the situation is that goods meant for public distribution system do not reach at their proper places. They are black marketed, but no punishment is given to any of the big traders. If the Inspector wants, he can arrest the trader under one or the other law, but he does not do so.

Therefore, I would like to submit that it should be implemented. A time period of five years has been fixed for it. But I would like to say that it should be a permanent feature so that there is a fear of law in the business community, corruption is checked and the corrupt traders are hauled up.

Mr. Deputy Speaker, Sir, whenever the goods meant for Public Distribution System are sold in black, the punishing authority is Tehsildar, the next such authority is S.D.O. and in the last stages, these cases come before the respective Minister of that State. Actually if so, happens in these cases that the punishment suggested by the lower level officers is condoned by the Minister and the accused is released. It should not be so because he is actually guilty and has been awarded punishment by a lower level officer. When some influential people like amdar and others approach the cabinet level minister, he absolves the corrupt trader of all the charges levelled against him. It should not happen. I think that in such cases final decision should be taken by a court of law. No Minister of the state should be allowed to interfere in this regard. I would like to submit that political persons should not be allowed to interfere in such

matters. On a number of occasions I have seen that a trader convicted by the collector is exonerated by the Minister. In view of this situation, the Government should take steps to plug the loopholes in the law.

All such traders who have been doing injustice to the poor by indulging in corrupt practices and blackmarketing of essential commodities should be punished and the authority which is responsible for the implementation of law should also be brought to book because as per the information made available in this regard, it is indicated that one thousand people have been arrested and cases have been instituted against them, but the fact remains that not even a single person is punished. In my view, out of the 25 persons arrested, at least 20 persons should get punishment. With these words I support the Bill.

SHRI TARA CHAND KHAN DELWAL (Chandni Chowk): Mr. Deputy Speaker, Sir, I rise to oppose the Essential Commodities Act and to support the resolution of Shri Nitish Kumar. In fact this is a very stringent and harsh price of legislation which is detrimental to the interests of the traders and abets Inspector Raj and Corruption.

Since I am a member of opposition, it does not mean that I am going to oppose all steps taken by the Government in the past. We supported some policies of the Government and the steps taken by the Finance Minister to withdraw the license system in respect of Industries. It is beyond one's comprehension as to why this Government which is pursuing the policy of liberalisation is also following a policy which is abetting corruption.

I would like to draw the attention of the Government to the amendment of 1981 to the 1955 Act. At the time of bringing that amendment, it was stated that it was a temporary measure for a period of five years to ensure the regular supply of essential commodities and check the blackmarketing of these commodities at a time of crisis. Contrary to it, today, the Government is exporting wheat. It means that there is no

shortage of wheat in the country. Therefore, in view of the changed situation, it is not at all essential to enforce the provisions of that amended Act. The 1955 Act itself is sufficient to take care of all these things.

Shri Mishra ji has stated that there are ten crore businessmen in our country. It means that the largest community in our country is that the businessmen. These small, middle and big traders are the backbone of the economic system of the country. They are honest and patriotic and ensure the smooth supply of all commodities throughout the length and breadth of this country. They provide the products from distant places like Madras, Calcutta or Bombay at the doorsteps of the consumers. Without them, this would not have been possible. On the other hand, only three-four essential commodities are applied through Government ration shops and even these things are not made available at the proper time. The sugar quota of Diwali is supplied after one month of the festival and some or the other essential item namely wheat or rice is always found out of stock at these shops. In case the supply of all the commodities is brought under the PDS, it will ruin the country.

SHRI SRIKANTA JENA: I think, the civil supplies department shall have to be abolished.

SHRI TARA CHAND KHANDELWAL: That is what we shall have to do.

One of the hon'ble Members has stated that traders' lobby in the Lok Sabha is opposing this piece of Legislation. But the fact is that unfortunately, even after 45 years of independence, this largest community of traders does not have its lobby in the Lok Sabha. The traders thought that in this country they contribute such a large amount to the revenue to the country and they are so sincere, even then there is no trader lobby in Lok Sabha. It is for this reason that sixteen-seventeen traders have been elected as the members of Lok Sabha. Hither to traders have been called Black-marketers, dishonest and unsincere. But I

[Sh. Tara Chand Khandelwal]

would like to make it clear that now no body will dare to call them in that manner. (*Interruptions*) I am speaking what I feel within. It has been stated here that it is the traders who build up schools, Dharmeshalas and temples. According to somebody else, they are doing all these things because they have black-money. Here I would like to ask such persons as to what right they have got to call a member of Lok Sabha a Black-marketer'. I think the foundation of Lok Sabha are laid on the Black-money because we certify that an amount of Rs. 50,000 or Rs. 1 lakh had been spent in elections. But I would like to know if the expenditure on any Lok Sabha election has been less than something between rupees Ten lakh to thirty lakh. It requires an introspection on our part. Right from police officer, Government officers, officers of sales tax and income tax department and the Government itself have been exploiting this country because we can see that a rickshaw puller who toils hard throughout the day has to pay about Rs. 2 for a cup of tea which is available for M.P's at a nominal rate of 35 paise. The rickshaw puller has to pay Rs. 4 for a cup of coffee and the same is provided for M.P's at the rate of 65 paise. Moreover M.Ps can get the same rich food for Rs. 11 which is otherwise available on a payment of Rs. 250 in a five star hotel. Here we can see it as to who is exploiting. In fact it is we who are exploiting the country.

This piece of legislation itself is in fact an infringement of human rights because it denies the right of bail to the traders which is permissible even in the care of a murderer.

[English]

It is not bailable. Secondly you cannot make an appeal. What is this?

[Translation]

If someone has a stock of 200 bags of wheat and at the time of checking his register shows a stock of 199 or 201 bags, he is

liable to be sent to the jail. What sort of rule is it?

17.53 hrs.

[SHRI SHARAD DIGHE in the Chair]

Consequent upon the seizure of this stock, all his partners are sent to jail and the perishable items of the seized stock is get destroyed. Moreover the case is also not decided by the court for as long as six months. As long as the stock is with the Government it would get damaged. The extent of loss caused by this situation to the nation can be well-imagined. When the foodgrain get decayed, then it is not at all worth consumption by anybody. In fact it is a loss to the nation. Except the loss of money, it does no good to the people.

I would like to submit that the statistics furnished by Shri Nitish kumar and Shri Shyam Bihari Mishra are also available with me but I don't want to waste the time of the house by repeating them. 1 lakh 60 thousand raids were conducted and prosecutions were launched against 6000 persons and out of them only 288 persons were proved guilty. The Government may make estimate as to how much amount of the Government as well as of the businessmen was spent on conducting 1 lakh 60 thousand raids and on filing 6000 cases and the result is worth considering that only 288 persons were punished. I would like to cite a striking example which reveals as to how this law is misused. Last year in January 1992, raids were conducted in Delhi in the premises of rice traders and foodgrain merchants under this very law. In this regard, long statements of the Chief Secretary and the Lieutenant Governor of Delhi appeared in the newspapers continuously for one week. I would like to cite those details. 3 lakhs 75 thousand bags of rice were seized but these bags were seized illegally therefore, the Government have to release 2,75,000 bags out of them after two months because the Government action was ultravires when the traders moved the High Court, it had also to release remaining bags of rice. It means 3 lakhs bags of rice were

seized but no one is found guilty on the contrary image of the country was tarnished in foreign countries because those traders were rice exporters.

I personally know that businessmen of several countries kept India in the black list. The image of the country was so much spoiled abroad because the L.C. was expired and they could not utilize it (*Interruptions*) You have just come to the House therefore, you don't know for how long I am speaking I would like to take one minute more.

MR. CHAIRMAN: The record is with me.

[English]

We have to pass this Bill by 6.30 p.m. Please conclude.

[Translation]

SHRI TARACHAND KHANDLWAL: I would like to request to the hon. Minister not to make it a prestige issue. The Government have to pass this Bill then it must be passed Keeping in view the feelings of all the hon. Members, the Government should adopt a liberal attitude and should withdraw this Bill. This is my appeal.

[English]

17.59 hours

SHRI ANKUSHRAW RAOSAHEP TOPE (Jalna): Mr. Chairman Sir, I rise to support this Bill.

This Bill provides for the regulation of the production, supply and pricing of essential commodities. Also, this Bill deals more effectively with persons indulging the anti-social activities like hoarding and blackmarketing, etc.,

In spite of all these provisions made in the Act, my question to the hon. Minister is whether all these commodities which are mentioned in the Essential Commodities Act, really reach the fair price shops to serve

the common man, and be available at the prices decided by the Government. Because, kerosene which is meant only for the poor people is not available. In, our area we see that all the tankers are going directly to the petrol pumps for adulteration. Kerosene does not reach the fair price shops at all. It does not reach the poor people at all. All the officers of the bureaucracy who deal with it and all the agents of the fair-price shops, all of them are in collusion; with the result kerosene does not reach the poor people.

18.00 hrs.

That is used only for adulteration of petrol. So, that also should be taken into consideration.

About sugar, much has been said. It is a fact that forty per cent of the sugar which is directly purchased as levy sugar for the poor people and for which Government invests crores of rupees so that the poor people can get sugar at cheaper price through Fair Price Shops, is purchased directly by businessmen and merchants in wholesale. So all of this sugar does not go to the poor man. Therefore, if all these commodities which are meant only for the poor people are not going to them through the Fair Price Shops then we have to consider whether this Act which we are using is useful or not. After all, Acts are there, penal provisions are there, but whether the execution is there or not, that is to be seen. Even in this Act, Section 15 (a) provides that if at all action is to be taken against public servant, then the permission of the State Government, if the officer is of the State Government, or of the Central Government, if the officer is of the Central Government, has to be obtained. Such permissions are never obtained and hence the public servants are never prosecuted. In spite of all these offences, I have never heard or seen that any of the officer is prosecuted or any of the agents who are dealing in these, are prosecuted. So, if the Acts are there but the execution of the Act is not there, then it has to be considered whether the Act is useful or not. That is one of my points which the hon. Minister should take into consideration.

[Sh. Tara Chand Khandelwal]

Much has been said about summary trial. What I have read in the Bill is that a Judge, not less than the rank of a High Court or of the Sessions Court, is meant for that. So, the Judges of this rank will definitely give better judgement, even if the trial is a summary trial. So, I support the provision with regard to summary trial.

There is a provision about the offences being non-bailable. We see that if the offence is bailable, then the police is allowed to give the bail. I have seen that even in murder cases, the courts always grant the bail. So, the provision with regard to the offence being non-bailable should be there; the offence should not be bailable.

It has been said that there is no provision for appeal. But the man who is convicted can go to the High Court and can file a writ petition against whatever action is taken against him.

So, whatever provisions are there in the Bill, they are good ones. My grievance is only about the execution because in spite of all these provisions that you have made, if the execution is not there, then the Act itself is useless. So, my request to the hon. Minister is that for the execution of the Act also, some mandatory provision should be made.

With these words, I again support this Bill. Thank you very much.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Chairman, Sir, I don't oppose this Essential Commodities Act of 1955. I oppose those 6 amendments which had been made in this Act 12 years ago in 1981. I submit that already there had been 18 laws. If one more law would be enacted then the shopkeepers and dealers would have to put up photos of 19 licences at their establishments. The traders would have to have a darshan of those licences before that of God. There would have no problem if the

rights vested in the police officers remained with the licencing authority itself and Act of 1955 was there. I oppose these 6 amendments made in this Bill. According to these amendments, hearing would not be held in the special courts. The provisions of punishment for a period of at least 3 months and not more than 7 years are made in the Bill but arrest will be non-bailable. There cannot be any appeal in any court. I strongly oppose these provisions. The whole stock of the firm found guilty would be confiscated. There could be other goods with the confiscated goods. All the goods would be sold at the retail price fixed by the Collector. As soon as F. R. i. is lodged against a trader he would be arrested. These all things will further complicated the problem. No solution would be found out by handing over the job of confiscation to the senior officials.

I would like to place some statistics before the House in this regard. So far 10,40 raids have been conducted as a result of which 5046 persons have been arrested and shri

[Translation]

Shri Lal Bhargava (Mr. Charman Sir, I don't oppose the Essential Commodities Act of 1955. I oppose these of amendments which had been made in the Act 12 years ago in I submit that already there had been 18 laws, If one more law would be enacted then the shopkeepers and dealers would be enacted and dealers would have to put up photos of 19 licences at their establishment. The traders would have to have a darshan of those licences before that of God. There would have been no problem if the rights vested in the police officers remained with the licensing authority itself and Act of 1955 was there. I oppose these 6 amendments made in this Bill. According to these amendments, hearing would not be held in the special court, The provisions of punishment for a period of at least 3 months and not more than 7 years are made in the Bill but arrest will be non-bailable. There cannot be any appeal in the court. I strongly oppose these provisions. The stock of the firm found guilty would be confiscated. Threw

There could be other goods with the confiscated god. All the goods would be sold at time realin price fixeby the Collector. As soon as F.R. I. is lodged against trader jagainst a trader he would be arrerestaed/ The would be arrested. Theres all things will further complicate prove No solution would be found out by handing over the job of cfonfiscatgion to the senior officials.

I would like to place some statistics before the House in this regard. So, far 10,40,000 raids have been conducted as a result of which 5046 persons have been arested and only 267 persons were convicted. That means that there were only 5% convinctions.

I submit that we should not extend the period also in this manner. It will not provide relief to the traders. The traders also held a rally on 28th July, 1992 and staged a dharana from 9th August to 19th August 1992, and Bharat bandh was observed on 24th November but the Government has not paid any attention to their problems.

Mr. Chairman, Sir, at presnt the traders are very much fruzzeled that they have always been regarded guilty. My request is that a 30 member committee comprising of 10 members from politicians, 10 from Government officials and 10 from traders and a judge from the Supreme court should be constituted to enquire as to who is the real culprit. Today, the Congress party regards traders a dishonest. It is regarded that the whole business community is dishonest but I think that traders community is not dishonest. Defaming of trader community amounts to defaming the people of India (*Interruptions*)

SHRI SRIKANTA JENA: You please change the name of your party from Bharatiya Janata Party to Vyapari Janata Party...(*Interruptions*)

SHRI GIRDHARI LAL BHARGAVA: It is our duty to raise the problems of any community. I think there is nothing wrong in it.

Therefore, I request that the Act of

1955 should not be touched and the amendments introduced in this regard should be withdrawn. Alongwith it, I support the disapproval motion presented by Shri Nitish Kumar. Mr. Chairman, Sir, I would like to thank you for giving me time to enable me to express my views on the subject.

[English]

THE MINISTER OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (SHRI A.K. ANTONY): Mr. Chairman, Sir, I was patiently hearing the speeches of all the hon. Members who participated in this discussion. I am grateful to all of them because I find that there are many valuable suggestions from the hon. Members. Even though, today I am not in a position to accept them, I am sure many of the suggestions made here will be helpful to the Government for further guidance.

Sir, today, actually, I need not go into a detailed reply. That is my feeling because there is nothing new in this legislation. Actually it is a continuing legislation. It has been in existence for the last 11 years. We are making only one amendment, that too to satisfy certain apprehensions of the trading community. To avoid harassment from innumerable officers, we are now trying to limit their scope to only a police officer who is in charge of a station or somebody authorised by him, who alone can hereafter arrest. That way we are trying to avoid any possible harassment. As I said earlier, most of the speakers from that side and this side gave many valuable suggestions. I assure the House that I, on behalf of the Government, will make serious note of it and we will examine it, we will re-examine the guidelines also, we will try to see whether we can do something or not. But at the same time, I would like to say with a little pain that I was keenly hearing the speeches from Shri Nitish Kumarji and other hon. Members. Some of them went to

[Sh. A.K. Antony]

the extent of saying that this is an attack on civil liberty. I cannot understand it and this statement will recoil on those Members whose parties are in power in some States. I do not want to politicalise the issue, but I would like to impress upon the Members that the present Government has taken maximum recourse to maintain all the democratic norms and also all the norms which democratic Government will have to follow in a federal system.

This legislation was not brought all of a sudden. As I told you, it has been continuing for the last 11 years. When the period was expiring, the present Government thought that since this legislation is affecting large segments of the country, all the consumers, traders and all the other segments, we must have detailed discussions with all the sections of people. So, way back in 1991 itself, in August 1991, the Union Government wrote a letter to all the State Governments explaining the present legislation, its impact and also for taking their views not only about the extension of the legislation, but also extending all the provisions of the legislation. So, no State Governments were taken by surprise. No political party which is controlling a State Government was taken by surprise.

AN HON. MEMBER: Has any State Government opposed it?

SHRI A.K. ANTONY: I am coming to that.

In a letter which we wrote on 28th August 1991, we asked the State Governments as follows:

"I would request the State Governments to kindly take a review about the provisions with reference to their experience in imple-

mentation during the last 9 years or so and other factors and communicate to us the considered views of the State Governments / UT Administrations whether these provisions should be continued, whether only the existing provisions of the E.C. Act 1955 are sufficient to deal with the anti-social elements in the society and the State Government/U.T. Administrations wish to suggest some modifications/additions in the Special provisions of the Act."

So, the State Governments were given an opportunity to say whether they want to extend this Act, whether they are opposed to the extension or whether they want any modification in the provisions. All these opportunities were given to all the State Governments irrespective of the political colour of the State Governments. We did not get any reply from three state Governments, namely, Assam, Jammu and Kashmir and Bihar only These three States did not reply at all, but no State Government has opposed the extension.

Sir, I would like to inform the house that not only the States ruled by the party which is the ruling party at the Centre, but other State Governments like Sikkim, West Bengal, Tamil Nadu and Orissa and also all the four BJP-ruled State Governments of Uttar Pradesh, Rajasthan, Madhya Pradesh, and Himachal Pradesh requested that this law should be extended for five more years. (Interruptions) The hon. Members should realise that not only the State Governments of Uttar Pradesh, Rajasthan, Madhya Pradesh and Himachal Pradesh were using this legislation when they were in power, but they were arresting people under this legislation. After that, when the legislation was due to expire they requested the Central Government to extend it for five more years. because, they said that if this

legislation is extended, they will be able to deal effectively with black-marketers and hoarders. So, not only the Congress Party but all the political parties which are represented in the Lok Sabha like the BJP, Janata Dal, CPI(M) and AIADMK, all of them were of the unanimous opinion that this is a very effective legislation to prevent black-marketing and hoarding. So, after agreeing for the extension of this law earlier and saying now that this is an attack on civil liberty is not correct. That means, all your State Governments when they were in power, were using this legislation for attacking the civil liberties of the people of those States.

So, Sir, this is not a legislation for the benefit of the Congress Party and this is not a legislation for the benefit of the BJP or Janata Dal or any other party, but this is a legislation in the national interest and this legislation is to protect the interests of the common man in India, because out of our experience, we have realised that the Essential Commodities Act of 1955 is not enough and is not effective. That is why, that Act was amended in 1981 and it was continuing for the last 11 years. Now, we are again trying to extend it to another five years only.

Sir, some of the Members suggested that some of the provisions should be deleted like the provision for summary trials, special courts, confiscation powers and appeal to the State Governments. If all these provisions are to be deleted, it means again we will be going back to square one; we will be again going back to the Essential Commodities Act of 1955, which is not enough to prevent black-marketing and hoarding. That is why, we have brought about this amendment.

So, please realise the situation. It is not a political legislation. This is not helping any party. The Government may come and go.

In the present situation, we have to continue this. I am happy to know that the Members from all sections are now agreeing that, at present, there is more or less a favourable supply position throughout the country. To that extent, I am happy. Nobody is complaining about price rise to that extent. You were telling: "In 1981, there was drought there was shortage and there was blackmarketing. Now there is surplus in sugar, surplus in wheat, surplus in rice, surplus in cement. We can export things. Therefore, why is this legislation necessary?" You are indirectly telling, we are managing things in a better manner. As the Government, we cannot be satisfied only with this legislation. We are in a better position. This year, we are in a better position regarding supply of essential commodities. But we must be careful. We cannot take a long-term decision on the basis of one cycle only. We have to think for the future. This legislation is for the next five years. It has to be continued. The only complaint is, Mr. Nitish Kumar has said that we have not so far made much headway in spite of the period of 11 years. That is my view also partially. But please understand that even though we are taking the initiative to pass legislation, ultimately it is for the State Government to implement this legislation. Again and again, the Central Government has requested the State Governments to be more effective, show more political will and to deal with blackmarketees, and hoarders with more determination. So, cooperate with us. We request all the State Governments hereafter to be more effective. It does not mean that this legislation is not enough. This is necessary. But as will also request them that this is the view of Parliament that things are not moving fast as expected. Please understand the difficulty. Even with all these powers, our blackmarketees, hoarders and profiteers are much more advanced in defeating the purpose of this legislation. Let us have this legislation; let us unitedly pass it to make it

[Sh. A.K. Antony]

more successful in implementation. Your suggestions are noted. With sincerity, we will try to examine them.

About guidelines to the State Governments, we will see that unnecessary harassment should not be allowed. Honest traders, honest businessmen and people who are doing business as per law should not be harassed to get money. At the same time hoarders, profiteers and blackmarketeers deserve no mercy and have to be punished.

My request is, Nitish Kumariji, kindly withdraw your Resolution and let us pass it unanimously.

[Translation]

SHRINITISHKUMAR (Barh): Mr. Chairman, Sir, I agree with the hon. Minister. He is a very good man but in bad company.

[English]

-a good man in the bad company....(Interruptions)

MR. CHAIRMAN: Please do not interrupt. This Bill has to be passed by 6.30 p.m. today itself...(Interruptions)

SHRI NITISH KUMAR: If you go on interrupting, it will create problem for the Ministers. They will have to be phoned again and they will have to come to the House again.

[Translation]

We have seen the plight of the Ministers, they have to come at the last moment. The hon. Minister has not given a satisfactory reply to my points. Now my complaint is not only against him but also to those

hon: Members who have supported it. The objects of this Bill were not to harass the public but were to protect the interests of the consumers and common man and not to establish raj rule. My complaint was on the point that he had said that all the Governments want such laws and I had also said same thing in the beginning. Whatever is their political colour it may be tri colour or saffron all the Governments want such laws. The Governments of the four Bharatiya Janta Party ruled states wrote the Government for the same. Our party is totally different in this regard. The Janta Dal Government of Bihar has not expressed his opinion. The Resolution presented for the disapproval of the Bill is so justified that only an M.P. from Bihar has moral right to present it that this law should not be continued. Keeping in view the feelings public the Government of Bihar has not expressed its opinion in this regard. When all the four B.J.P. Governments express their opinion in favour of this Bill then BJP has to right to oppose it. Hon. Member of my party Shri Sri Kanta Jena has aptly said that the BJP should change its name to Vyaparik Janata Party. We have come to this House to represent the interest of commonman we are not against the traders. I have presented this resolution...(Interruptions) As there is provision of Article 370 in the Constitution for Jammu and Kashmir similarly there is Article 370 in the Constitution of Janta Dal for Orissa. Therefore, kindly don't ask repeatedly about Orissa...(Interruptions)

[English]

Biju Babu is above certain things. You know Biju Babu. Biju Babu is an elder statesman. Why do you comment upon him regularly?

[Translation]

We have the boldness to comment

about Biju Babu? It is the fortune of Orissa that he accepted the Chief Ministership of that State. You may go through the books After Nehru who? Biju's name did figure in it. Try to understand this.

Mr. Chairman, Sir, our protest is thoroughly justified. That is why we moved this resolution, but he did not pay any attention to any of our complaints. He should accept certain things at least at times. Whole stock is ordered to be seized in the event of an irregularity being found in case of one particular commodity. This should not have been done. This is wrong. I know you have a little time at your disposal, so I put the thing in a nutshell.

Secondly, there is no right of going for a judicial appeal. At least, this should be provided. When you have to harass a particular trader of a particular State, you approach him for collecting donation from him. You say that this law is a continuing legislation. If you feel necessary, you should put it in the permanent statute book and it should not be there to be effective for five years only. If the Act of 1955 is not sufficient, it can be amended by introducing a comprehensive Bill. Otherwise, it creates panic only and the genuine traders are harassed. We may score debating points on this issue by holding separate discussions, but the fact remains that people are harassed and punished unnecessarily. I do not want to repeat the statistics that only a little more than 200 persons could be punished out of one lakh 64 thousand raids that were conducted. The meaning is quite clear that people are exonerated after taking bribe from them or they are caught simply to take bribe. There cannot be any other motive in this matter. I know it and I am raising this issue because the trading communities in Bihar come under the category of beneficiary of social justice and Mandal Commission...

[English]

MR. CHAIRMAN: I think the House agrees to extend the time of the House till this Bill is passed.

SEVERAL HON. MEMBERS: Yes.

[Translation]

SHRI NITISH KUMAR: The people about from Shri Khandewalji and Shri Misraji were referring to do not come under the category of traders. In our State traders come under the backward class. Baniys (traders) come under the category of backward class. (Baniys (traders) come under the category of backward class). Shri Sitaram Kesri is their leader and he belongs to a backward class.

He could not be elected from Bihar so that he should not face such harassment. We are also protesting it. Misraji was saying that he is the president of hoarders. I said that he should not speak like that.

SHRI SHYAM BIHARI MISRA (Billaur): I did not say that I am the president of hoarders. When you commented like that, I said that you were calling me that.

SHRI NITISH KUMAR: I do not know as to which place Misraji belongs to as a trader. He is the president of traders. People belonging to his caste started the division of society into four varnas- Brahim, Kshtriya, Vaishyas and shudra. Here we see, that a Brahim is the president of Vaishyas. But why so?

SHRI SHYAM BIHARI MISRA: A Vaishya and a trader are two different classes. People belonging to all the classes come under the category of traders. People belonging to the Scheduled Castes and Scheduled Tribes and backward classes also come under the category of traders.

[Sh. Shyam Bihari Misra]

Your party has always been dividing the people of the country and you are trying to divide the trading community as well.

[English]

MR. CHAIRMAN: Shri Nitish Kumar, please do not go astray here and there. Please conclude now.

[Translation]

SHRI NITISH KUMAR: Mr. Chairman, Sir, you have seen that Misra ji could not conceal his intention. I simply said that there is Varna- Vyavastha (caste system) and he happens to be the president of a particular community. So, I do not know as to what is to be the fate of traders. You can imagine the extent of exploitation that while on the one hand Shri Narasimha Rao ji formulates such acts which provide for arrest of those who refuse to give donation. While on the other hand a man like Misraji becomes the president of traders. The traders have to suffer both ways. We moved this resolution for securing liberation of the traders. The Government of Bihar did not give its opinion on this Bill. That is why the two are tuned together.

MR. CHAIRMAN: You have covered all the points.

SHRI NITISH KUMAR: I would conclude after mentioning my last point. Shri Anthony referred about civil liberties in course of his reply. I know Shri Anthony there was a time when he did not succumb to the dictatorial attitude of so big a leader and resigned. I know, he believes in civil liberties and that is why he is speaking like that. We hope, that he would not allow any violation of civil liberties should a violation

take place, he would prefer to resign from the cabinet. I am emphasising this point and I wish that he should not face such a situation to resign. It took him a long time to get a berth in the cabinet after he resigned as Chief Minister. So, we do not wish that he should resign from here also. That is why I am emphasising time and again that he should introduce a Comprehensive Bill to replace this Act. Essential Commodities Act should be amended by introducing a Comprehensive Bill and the present ordinance should either be allowed to lapse or it should be referred to a Joint Parliamentary Committee. Moreover, a Comprehensive Bill should follow after each and every point is discussed and decided. So that the interest of the general people might be safeguarded and the innocent and honest people belonging to the trading community do not feel harassment. They are also the part of our society. We may make maximum fun of them and may abuse them like any thing but the fact remains that they are indispensable. If at all there are parties that do not bother for the donation from the trading community, they are Janata Dal and some left parties. As regards other parties, they have to give donation to one or the other party. The only point of difference between the two political parties is that while one party raises their issue after taking donation from them, the other party takes donation and still oppresses them. Ours is the only different party that is raising the voice against their exploitation. We want that they should not be denied of their civil liberties, and the interest of the general public should be safeguarded. I have listened to the whole discourse of the hon. Minister but I feel that he has not been able to give satisfactory replies to any of the questions. Nothing but his personality has impressed me. I have great regard for the hon. Minister, but I am helpless. Therefore, I would like to submit with all humility that I am not in a position to withdraw the resolution that I have already moved.

[English]

MR. CHAIRMAN: I shall now put the Statutory Resolution moved by Shri Nitish Kumar to the vote of the House. The question is:

"That this House disapproves of the Essential Commodities (Special Provisions) Amendment Ordinance, 1993 (No. 1 of 1993) promulgated by the President on the 2nd January, 1993."

The motion was negatived

MR. CHAIRMAN: Now we shall take up Motion for Consideration of the Bill. There are amendemtns for circulation.

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, my submission is that since the hon. Minister gave no clarification to any of our points while giving his reply, I would like to know as to what was the need of seeking extension of five years through this Bill and whether the government proposes to come forward with a comprehensive Bill? Despite having a number of laws for the same purpose, what is the utility of this Bill from the point of view of social justice? I am of the view that it is not likely to be of any utility either to the consumers or to the trader community. The hon. Minister stated that it will benefit the general public. But his reply does not prove its veracity. There are already a number of laws to that effect. So there is no need of bringing this Bill, which seeks an extension of another five years. Shri Guman Mal Lodha, who happens to be a jurist has said that this Bill would not be able to achieve its objective hence, it is not at all required. As regards making a provision for summary trial and transfer of powers it would be nothing but harassment of the general public and it will

not serve their interests. Therefore, we do not want to be a party to the passing of this Bill. Hence we are going to stage a walk out.

18.37 hrs.

At this stage, Dr. Laxminarayan Pandeya, Shri Shyam Bihari Misra and some other hon. Members left the House.

MR. CHAIRMAN: Now I put amendment numbers 1,4,7, and 8 moved by Shri Girdhari Lal Bhargava, Shri Mohan Singh, Shri Dau Dayal Joshi and Shri Rajendra Agnihotri to the vote of the House.

Amendments Nos. 1,4,7, and 8 were put and negatived

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955, be taken into consideration."

The motion was adopted

MR. CHAIRMAN: The House will now take up clause by clause consideration of the Bill.

The question is:

"That Clauses 2 and 3 stand part of the Bill."

The motion was adopted

Clause 2 and 3 were added to the Bill.

MR. CHAIRMAN: Now Clause 4.

Shri Syed Shahabuddin- Not present

Shri Girdhari Lal Bhargava - Not present

MR. CHAIRMAN: There are no amendments to Clause 5. I shall put together Clauses 4 and 5 to the vote of the House. The question is

"That Clause 4 and 5 stand part of the Bill."

The motion was adopted

Clause 4 and 5 were added to the Bill.

MR. CHAIRMAN: The question is.

"That Clause 1, the Enacting formula and the long Table stand were added to the Bill."

The motion was adopted

SHRI A.K. ANTONY: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

18.39 hrs.

HALF -AN-HOUR DISCUSSION
FOREIGN INVESTMENT IN POWER
SECTOR

[English]

MR. CHAIRMAN: Now we shall take up Half-an-Hour Discussion. Dr. Laxminarayan Pandeya to speak.

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, the information given by the hon. Minister of Power

in his reply to my question on 1st March was incomplete, and the information sought in the House was not provided. The hon. Minister did not give a satisfactory reply to the supplementary questions asked by the other hon. Members. It is for this reason that the matter has been raised here again under half an hour discussion.

[English]

MR. CHAIRMAN: May I request the hon. Members not to stand in the gangway please? Kindly take your seats or else withdraw from the House please.

(Interruptions)

[Translation]

DR. LAXMINARAYAN PANDEYA: Mr. Chairman, Sir, I would like to submit that it is very essential to increase the power generation with a view to ensure all round development of the country. Electricity being generated at present is not adequate to cater to our power requirements and thus the farmers have not been able to make the required progress. Similarly industries are also not being supplied power in accordance with their needs. All this has had and will continue to have an adverse effect on the economy of the country. The present level of power generation is not adequate to meet even 60-65 per cent of our total requirements. Our installed power generation capacity utilisation is also not optimum. Besides this there are several projects which the state Governments had sent to the Central Government for their clearance but these have not been cleared so far, due to which those schemes have been lying incomplete. This has also been causing an obstruction in the production. Several such schemes from Madhya Pradesh Government have been lying pending with the Central Government.