

[English]

(Interruptions)

MR. DEPUTY SPEAKER: No, please. Zere Hour cannot be extended. This issue can be taken up tomorrow.

The House stands adjourned to meet at 14.25 hrs.

13.25 hrs.

The Lok Sabha then adjourned for Lunch till twenty five minutes past fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at twenty nine minutes past Fourteen of the Clock

[MR. DEPUTY SPEAKER *in the Chair*]

STATUTORY RESOLUTION RE.
DISAPPROVAL OF THE ESSENTIAL
COMMODITIES (SPECIAL PROVI-
SIONS) AMENDMENT ORDINANCE

AND

ESSENTIAL COMMODITIES (SPE-
CIAL PROVISIONS)
AMENDMENT BILL

MR. DEPUTY-SPEAKER: The House shall now take up items 18 and 19 together. Shri Nitish Kumar.

SHRI NITISH KUMAR (Barh): Sir, I beg to move:

"The 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."

[Translation]

Mr. Deputy Speaker, Sir, on 2nd January, 1993 an ordinance amending the Essential Commodities (Special Provisions) Act was promulgated by the Central Gov-

ernment here and this Bill is to replace that ordinance. The Essential commodities Act is an old act as it was passed in 1955. Primarily it was enacted to check black-marketing and hoarding of essential commodities. After some time it was further amended to incorporate special provisions. That amendment was made for a period of five years. In 1987, the period of amendment was extended further for another five years. In 1992, even the extended period of five years expired. Now this amendment Bill seeks to extend the period for another five years.

Mr. Deputy Speaker, Sir, any Government, be it the Central Government or the State Government, would like to have this type of law, irrespective of its intentions or concept. It is thought that mere enactment of law will solve all the problems. Every citizen of this country would like to purchase essential commodities at a reasonable price. We do concede that essential commodities should be supplied at fair prices and there should not be any blackmarketing and hoarding of these items. Have we achieved that end by making special provision in the law? In my opinion, it has not checked blackmarketing and hoarding. But the Government despite this sort of experience wants to continue with this provision for another five years. If the Government considered it necessary and wanted to enforce the law for all time to come, it could have come forward with that sort of enactment in the very beginning. Thus special provision which provide for summary trial by a special court was meant for a period of five years. It has failed to achieve its objective. Are the people or the traders of this country responsible for its failure. They are not at all responsible for it. Generally people are against the trader community. What to say of a big city even in a small town whenever a small trader is arrested under the Essential Commodities Act, the people feel happy and it becomes the talk of the town with a general impression that he must have certainly indulged in blackmarketing. In fact, the Government wants to take a mileage out of that psychology. At this time, even the people sitting in the Government are not aware

whether this act is being implemented properly or is being misused. In fact, this act is being misused to harass small traders. It is not being utilised to ensure the availability of essential commodities to the people at fair prices. This is not my version. I am saying it on the basis of the statistics which have been made available by the Government itself in their reply to USQ No. 5646 dated 1.4.92 asked by Shri Bhagwan Shankar Rawat in Lok Sabha. It seems that the Government has not given a correct reply and it has befooled us. I think that whatever reply is given by the Government in Lok Sabha, it must give the correct position. At that time, the Government, in their reply to the question of the hon. Member regarding the action taken by it under the Act, had stated:

[English]

"As per reports received upto 28th February 1992 the following action was taken by the State Governments, Union Territories Administration during the year 1991:-

Number of raids made	1,64,781
Number of persons arrested	5,673
Number of persons prosecuted	6,630
Number of persons convicted	281
Value of goods confiscated	Rs.25,41,55,000"

[Translation]

Mr. Deputy Speaker, Sir, it means that on an average, the articles worth Rs. 1542 were confiscated by them in each such raid. It shows that all these measures of the Government proved to be a futile exercise. Although such a draconian law is going to be enacted, yet it is being claimed to be a pious work. You want to make the essential commodities available to the people of this country at cheaper rates. Will you be able to check black marketing and hoarding? Leave aside the expenditure to be incurred by the Government. Now the special courts are set

up while in the financial memorandum it is said that no new expenditure will be borne by the Government. In this way, the Government has to engage Public Prosecutors at every level. Only speaking about it will not serve the purpose. The average amount seized in a raid is Rs.1542 while the Government spends substantial amount on the case. Everywhere courts has been set up but what is the net result of all this exercise? Though this exercise leads to nowhere but this law will be used in future as well. Now who are the beneficiaries ? The people are not getting any benefit from it. The business community has also opposed it. A delegation of the people had met the hon. Minister of State and in that meeting it was said by everybody that it is a black law. It is a symbol of dictatorship and it should be amended. The Government had given an assurance that it would be amended to ensure that people are not harassed by it. So, the Government have made an amendment in the old Bill:

[English]

"Insertion of new Clause 10 AA in the Essential Commodities Act 1955, namely, notwithstanding anything contained in the Code of Criminal Procedure 1983, no officer below the rank of 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."

[Translation]

Now only this much amendment has been made that hence forth either the officer incharge, of this police station, the S.H.O. or anyone authorised by him in this behalf in writing would supervise the arrests. It will not make any difference. The incharge of the Policed station will issue orders on a pape for the arrests and if someone is arrested, then it will be written. It makes no difference whether the arrests have been made by S.H.O. or the constable. All these things are done by the S.H.O. What difference does it make whether the Government authorises the S.H.O. in this regard or the other person

[Sh. Nitish Kumar]

authorised by him does the work? All these figures show that this Act is misused openly. It is used only for harrassing the people. Had it not been so, certain facts would have come out of the raids. What was the results of the raids? Why such a small number of people have been arrested in such raids? One lakh and sixty four raids were conducted and only 5, 673 people were arrested. If only 281 people are punished, then what does all this mean? It seems that the wrong raids were conducted because you see that only 5673 people were prosecuted. It means when the money decreases the raids are conducted and when the money is received, they are set free from the police stations itself. Shri Kamaluddin Sahib is there in the Government and Shri Antony has been an old a administrator in Kerala also for some time. Therefore, you should also think as to what these people are doing. Being businessmen their reputation is bad. If they do something wrong, they should be punished, but they are not punished. This whole episode tells the same story. Either the law enforcing agencies, who are to abide by the law strictly are corrupt and dishonest because even after so many raids, such a less number of people are arrested. In terms of percentage, 98 persons out of 100 go scot free or the raids are being conducted in a wrong way so that 98 guilty persons go scot free. Both the things cannot be wrong. There is no need of such a special provision. I understand that there is no benefit of it and that is why we have brought the disapproval motion.

The businessmen have a problem regarding it. Everything has been done including the summary trial but what is the outcome? Only 281 persons were punished in a year. There is no need at all of such a law. When only 281 businessmen are found guilty in the whole of the country then there is no need at all to have such an expensive law. What is the need of having Public Prosecutions and paying to the lawyers. Actually this law is not for the people. The fact is that this law earns bread and butter for those who you have blessed with the uni-

forms. We would like to allege that this law is for the earning of those inspectors, officer-in-charge and officers entrusted with the supply work. We do not know about the commission of the police station incharge and other high officials. Only the hon. Minister can comment about it. It was published in the newspapers. You might be knowing about the smuggling in the North-Eastern States. It was appearing continuously in the newspapers last year that at the shops meant for the public distribution system, the ration card holders were not given their full quota of foodgrains and on the other hand the smuggling of trucks loaded with foodgrains of the North-Eastern States were reported. The Food Corporation of India was entrusted the responsibility supply of foodgrains.

14.44 hrs.

RE. ARREST OF MEMBER

[English]

SHRI PIUS TIRKEY (Alipurduars): Sir, I am on a Point of Order.

Shri Shailendra Mahto a Member of this House has been absent from the 16th. He was arrested by the Bihar Police in Chhota Nagpur. He is still in jail. No news about him has been given to the House. He has been pressurised and he has been given some punishment also that he should call off the indefinite economic blockade in the Chhota Nagpur area. So, this news should have come to the House as to where he is now, what is his condition and what is the police doing there. This attracts the privilege of the Member. It is very important.

MR. DEPUTY SPEAKER: Yesterday the following announcement was made in the House:

"Shri Shailendra Mahato, Member of Parliament has been remanded to this jail today in connection with case number 288/93 under section 107/116/113/151 code of Criminal Procedure by the