

के बच्चे बम्बई, कलकत्ता, मद्रास और यह दिल्ली में भी पढ़ रहे हैं। अगर यह बात भागे बढ़ाई गई, तो उस का भन्त क्या होगा, कहां जा कर यह बात खत्म होगी और किस हद तक इस देश की एकता को कायम रखने में मददगार होगी ?

MR. SPEAKER: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Haryana for the services of the financial year 1967-68, be taken into consideration."

*The motion was adopted.*

MR. SPEAKER: The question is:

"That clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted.*

*Clauses 1, 2, 3, the Schedule, the Enacting Formula and the Title were added to the Bill.*

SHRI K. C. PANT: I move:

"That the Bill be passed."

MR. SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted.*

17.11 hrs.

#### ESSENTIAL COMMODITIES (SECOND AMENDMENT) BILL

THE DEPUTY MINISTER IN THE MINISTRY OF COMMERCE (SHRI MOHD. SHAFI QURESHI): Sir, on behalf of Shri Dinesh Singh, I beg to move:

"That the Bill further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period, as reported by the Select Committee, be taken into consideration."

As the House is aware, the Bill was referred to the Select Committee on the 6th December, 1967. The Committee's Report was laid on the Table of the Lok Sabha on the 18th December, 1967; no changes have been suggested by the Committee in the original Bill.

I am extremely grateful to the Chairman and the Members of the Committee for having given their very careful consideration to this important Bill and making available their recommendations in such a short time.

I would, however, like to touch on the observations made by the Committee with regard to clause 3 of the Bill, namely, that some time limit should be fixed for the return of the Account Books that are seized to the parties concerned. I have assured the Committee that this will be done by suggesting to the State Governments and other concerned authorities that suitable provision should be made in the orders to be issued under the Act.

Another point stressed by the Select Committee by way of caution is that care should be taken to see that innocent persons are not harassed on purely technical grounds while exercising powers under this Bill. I may assure the House that Government are in full sympathy with this view and shall take all possible care to see that the enforcement staff of the Centre and the State Governments bear in mind this advice of the Select Committee while discharging their functions. The concerned authorities would be appropriately addressed in this connection.

The country has passed through two continuous years of drought causing acute shortage. This year a bumper crop is expected. We propose to take advantage of this good year to put the food economy of this country on a firm and stable basis. In view of the continued necessity of maintaining the public distribution system to serve the vulnerable sections of the

[Shri Mohd. Shafi Qureshi.]  
society, buffer stocks have to be built by maximising internal procurement. The provisions of enhanced penalties and the effective implementation of the Act will greatly assist in the matter by discouraging hoarding.

As the House is aware, prior to its amendment by the Ordinance of 16-9-1967, a period of 3 years imprisonment had been prescribed under the Essential Commodities Act as penalty for certain offences committed under the Act. This was based on the Report of the Commodities Controls Committee set up in 1953.

It has been found that offences in respect of essential commodities have been on the increase. Hon. Members will agree that in view of the need to deal with such offences effectively, Government should be armed with necessary powers to check hoarding and profiteering in respect of all essential commodities. With a view to making the provisions of the Act more stringent, Government have therefore proposed in this Bill, as was provided under the Ordinance of 16-9-67 to increase the maximum period of punishment for certain offences under the Essential Commodities Act from 3 years imprisonment to 5 years imprisonment.

From the statistics provided by the Central Bureau of Investigation, it is seen that from January to September, 1967, out of 10,072 cases sent for trial under summary procedure, 6,625 cases ended in conviction while during the same period, out of 57,702 cases sent for trial under normal procedure, 20,972 persons were convicted. It will be seen, Sir, that the performance under summary trial has been better than under the normal procedure. The provision for summary trial was originally incorporated in the main Act in 1964 and was available upto 31st December, 1966. This was extended by an amendment of the Act in 1966 upto 31st December, 1967. In view of the urgent need for speedy disposal of cases, it is now proposed in the present Bill to regularise the action taken under the Ordinance of

16-9-1967 to have powers under this section extended upto 31st December, 1969.

When the Essential Commodities Act was amended last year, it was done with a view to have powers under that Act for the procurement of foodgrains, edible oilseeds and edible oils. Even at that time Government had under consideration the question of acquiring similar powers in respect of all essential commodities declared under the Act. Cases of contravention of orders issued under the Act have to be dealt with more severely in the present day circumstances. It is, therefore, proposed in the present Bill, as was provided under the Ordinance of 16-9-1967, to amend sections 6A, 6B and 6C of the Act in order to extend the provision regarding confiscation by District authorities to cover all essential commodities, whenever contravention of an order under the Act has taken place.

As the House is aware, during the debates in the Lok Sabha last year, hon. members had advised the Government that the confiscation provision should not be applied to producers of foodgrains and edible oilseeds. This suggestion was accepted by Government and a proviso to the relevant section in the Act was included for the purpose. However, Government are of the view that such an exemption is not necessary in respect of essential commodities other than foodgrains and edible oilseeds. I may add that the existing Act provides for appeals to a judicial authority against orders of confiscation by District authorities of essential commodities seized for contravention of orders and in cases where the judicial authority sets aside the orders of confiscation, provision has been made for payment of compensation along with reasonable interest.

Prior to the issue of the Ordinance of 16-9-1967, the enforcement staff was authorised only to inspect the books of accounts, etc., and not to seize them. It has been brought to our notice that delinquent traders often take the plea in the courts of

law that their registers or books have either been stolen or lost. The copies of records taken by the enforcement staff are not admissible as evidence. It thus becomes difficult to substantiate a case against such traders. Almost all the State Governments, therefore, suggested that powers should be provided under the Act to seize books of accounts, etc. This suggestion was accepted and a necessary provision was made by the amending Ordinance. Such a provision has also been included in the present Bill. As pointed out by me earlier, in the enforcement of this provision, suitable provision will be made for the return of the documents seized, fixing a time-limit therefor.

The courts had the discretion to award punishment within the limits prescribed by the main Act, which, however, did not provide for mandatory minimum punishment. Most of the State Governments desired such a provision. Having regard to the serious implication of the offences committed in respect of essential commodities and the social need to curb them, it was considered necessary that there should be a minimum deterrent punishment under the Essential Commodities Act for the second and subsequent offences. It was accordingly provided in the Ordinance for a mandatory minimum sentence of one month's imprisonment for the second and subsequent offences and the present Bill provides for it. This, combined with the provisions inserted by the Ordinance of 16-9-1967, and also included in the present Bill for suspension of business for a period of six months in the essential commodity in respect of which an order has been contravened, will, it is hoped, have a deterrent effect on those traders who are habitually inclined to be dishonest.

Prior to its amendment by the Ordinance, the main Act did not declare offences punishable under the Act as cognizable. To remove this difficulty, it is proposed to include in this Bill a provision, as in the Ordinance of 1967

to make offences under the Act cognizable. At the same time, with a view to allowing smooth functioning of business and trade, offences have also been declared 'bailable'.

Sir, according to the provisions of section 7 of the Act before issue of the Ordinance of 16-9-1967, only the property in respect of which an order has been contravened could be forfeited to the Government, the order of forfeiture being one for discretion of the courts. The coverings, packages etc. containing the contravened property and vehicles, lorries, animals etc. carrying the essential commodities unauthorisedly were not liable to forfeiture. Certain State Governments desired that a provision should be made in the Act to provide for forfeiture of packages, coverings, vehicles etc. involved in the smuggling of prohibited goods. It has been found in practice that a lot of surreptitious movement takes place in the case of foodgrains where movement control has been imposed. With a view to avoiding smuggling of not only foodgrains but other essential commodities also on a large scale, it was considered necessary to accept the recommendations of the State Governments to provide for forfeiture by a court of packages, coverings, vehicles etc. involved in carrying the essential commodities. The present Bill includes such a provision as was made by the amending ordinance of 16-9-1967.

Prior to the issue of the Ordinance of 1967, in respect of offences committed under the Act, during prosecutions launched before a court of law, offenders very often put forward the plea that they were not aware of the provisions of the Act and the offences were not, therefore, committed by them deliberately. Government therefore, felt it necessary to make contravention of orders under the Essential Commodities Act punishable whether the order was contravened knowingly, intentionally or otherwise.

Sir, the Santhanam Committee on Prevention of Corruption had recommended that the Essential Commodity

[Shri Mohd. Shafi Qureshi]

ties Act should be amended to make violations of the directions issued under orders issued under the Act also punishable. This was accepted and a provision therefore made in the Ordinance of 16-9-1967 and in the present Bill for enlarging the definition clause of the main Act.

Sir, coming to the Ordinance of the 21st October 1967, I may say that this was promulgated with a view to enable the Government to implement its policy of partial control on sugar for 1967-68 announced on the 16th August 1967. As the House is aware, the present control over prices and distribution of sugar applies to the entire sugar production and stocks with the factories and is exercised under Section 3 of the Essential Commodities Act, 1955. With a view to augmenting sugar production during the year 1967-68 the Central Government have decided on a policy of partial control and to procure 60%, or such higher percentage as may be necessary, of sugar production of factories in 1967-68 so as to make up the quantity of sugar procured to a minimum of 13 lakh tonnes.

**SHRI NAMBIAR (Tiruchirappalli) :**  
How will you distinguish the sugar which is in the decontrolled quota ?

**SHRI MOHD. SHAFI QURESHI :**  
I am coming to that. Sugar will be procured under clause (f) of sub-section (2) of Section 3 of the Act and will be at fixed prices. The quantity so procured will be utilised for distribution through regulated channels mainly to domestic consumers. The sugar factories will be allowed to sell the balance production anywhere in India in the free market subject to periodical releases to be sanctioned by the Government. To enable the Government to procure a part of the production of sugar from factories at fixed prices, it was necessary to lay down the manner in which the price of such sugar will be fixed. This has been done by an amendment of section 3 of the Essential Commodities Act, 1955 by addition of a new sub-section 3C.

Sir, the House will agree that it is necessary to ensure regular supply of various essential commodities to our Defence Forces. In order that there may be no difficulty in this, a simple amendment of section 3 of the main Act for the purpose has been included in the present Bill.

In view of the urgent need for acquiring the powers mentioned earlier, Government had to promulgate the two Ordinances of 16th September and 21st October 1967. The present Bill seeks to replace these two Ordinances and to meet the requirements of Defence as mentioned above.

Finally, with your permission, I would like to briefly touch upon the minutes of dissent submitted by some of my hon. friends who served on the Select Committee. The exclusion of *mens rea* as an ingredient of an offence in this Bill has been objected to. I may say that persons committing offences under this Act sometimes escaped punishment for contravention of orders made thereunder on the plea that the offences were not committed by them deliberately. It was felt necessary to amend the Act so as to make contravention of an order made thereunder punishable whether the order was contravened knowingly, intentionally or otherwise. Objection has also been taken to the enlargement of the scope of the original Act to enable confiscation and forfeiture of all essential commodities including packages, coverings and receptacles and vehicles etc. and to make the offences cognizable, as also the provision of a minimum sentence of imprisonment for habitual offenders.

May I submit that under present-day living conditions there are commodities other than foodgrains and edible oils which are also very essential? It is with great care that Government agree to notify any commodity as an essential commodity. It is but logical that once a commodity is considered as an essential commodity all the provisions of the Act should apply. So far as the provision of minimum sentence etc. is concerned, the very purpose of the Act is to make

the penal provisions more stringent so that it works as a brake on the people who would normally be tempted to indulge in any antisocial activity and those who choose to flout it would pay for it in adequate measure.

I would not like to take more time of the House since most of these points including the 'vires' of the Bill have been considered by the Select Committee.

I am sure that this measure will have the support of the entire House. Sir, I move that the Bill be taken into consideration.

SHRI S. S. KOTHARI: Shakespeare wrote an entire play in so many words.

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period, as reported by the Select Committee, be taken into consideration."

Before I call any hon. Member to speak, I would like to say one thing in advance. We are going to have a half-an-hour discussion today and then we have got two motions, one relating to the earthquake and the other relating to floods. It is not as though this Bill has come up here straightway, but it has come from the Select Committee. It is not much of a controversial thing.

I know that some hon. Members have tabled some amendments also to this Bill.

SHRI KANWAR LAL GUPTA (Delhi Sadar): There is a half-an-hour discussion also today.

MR. SPEAKER: Yes, that is there, and then will come the motions relating to the earthquake and the floods. I think if we spend less time on this Bill, it would be helpful.

SHRI KANWAR LAL GUPTA: Is it possible to finish those motions today or they could be postponed for tomorrow?

MR. SPEAKER: We must take them up today and finish them. Tomorrow, we have got some other business. We are having the foreign affairs debate tomorrow and then the non-official business and then we have something else in the evening. Therefore, these motions cannot be postponed for tomorrow, but we shall have to finish them today.

SHRI KANWAR LAL GUPTA: What about Saturday?

MR. SPEAKER: Saturday also we have some other business. The business is so fixed that the programme is very tight.

SHRI S. M. BANERJEE (Kanpur): What is your suggestion, Sir?

MR. SPEAKER: Therefore, I am saying that we may try to conclude this Bill as early as possible. There are only two Members who have tabled amendments. One of them is Shri V. Krishnamoorthi who wants to have it referred to the President for reference to the Supreme Court under article 143. There are some other amendments in the name of Shri B. S. Sharma. By all means let them move their amendments, but I would only say that let them not make long speeches, so that we shall be able to finish this by 6 P.M. and then take up the other work.

SHRI V. KRISHNAMOORTHI (Cudallore): I beg to move:

"This House is of opinion that the Essential Commodities (Second Amendment) Bill, 1967, be referred to the President for obtaining the opinion of the Supreme Court under article 143 of the Constitution on the question of constitutional validity of the Bill.(1)

I had expected that the Select Committee would have pondered over the suggestions made when we discussed the motion for reference of the Bill to it. I had taken a long time on the last occasion by quoting so many judgments. I had also pointed out particularly regarding the procure-

[Shri V. Krishnamoorthi]

ment of 60 per cent sugar from the sugar factories at fixed prices and allowing them to sell the remaining 40 per cent in any manner they like that that would offend article 31 of the Constitution. One quintal of sugar is being sold today at about Rs. 300 to 350, whereas Government want to procure one quintal for Rs. 160 to 170. There is big price gap between the two. Under article 31, when Government are acquiring anything, the owner of that property must be given just and reasonable compensation. Even if Government acquire anything from the factory owners under the Essential Commodities Act, it is open to the factory owners to sue the Government for the balance of the amount on the ground that it offends article 31 of the Constitution. Even if Government may be protected by this Bill, yet it would offend articles 31 and 13 of the Constitution.

Since you, Sir, are in a hurry to rush through this Bill and moreover it is an ordinance which has got to be approved because otherwise the Bill will lapse, I would not like to take more time of the House. I would only suggest to Government to kindly examine it after this Bill is passed, during the next session. At the Select Committee stage a suggestion was made to call for the Attorney-General's opinion, but somehow or other that matter was dropped.

I would particularly point out that the proposed sub-section (3) of section 3 is unconstitutional because it violates articles 13 and 31 of the Constitution in the light of the judgment of the Supreme Court in *Bela Banerjee case* and also *Vajravelu Mudaliar case*.

Therefore, I move that the Bill be referred to the President for obtaining the opinion of the Supreme Court thereon.

MR. SPEAKER: I shall now put the consideration motion to vote....

SHRI V. KRISHNAMOORTHI: My amendment is there.

MR. SPEAKER: I thought that he was not pressing it, because he was saying that Government could examine it later on.

SHRI V. KRISHNAMOORTHI: I was saying that after the Bill was passed it was open to Government to have the opinion of the legal experts.

SHRI S. M. BANERJEE: I would like to seek your guidance in regard to one thing. The usual practice is that after the general discussion, even if it lasts for ten or twelve minutes, the hon. Minister replies and then only voting takes place.

MR. SPEAKER: I wanted to put only this amendment to vote. At some stage, all those who want to speak will get a chance. The only question is at what stage hon. Members want to speak. I am sure that he is not speaking on this particular amendment moved by Shri V. Krishnamoorthi. So, I wanted to dispose of this amendment first and then allow hon. Members to talk on the amendments later on. If they want to say something during the general discussion then this is the stage. Anyway, it makes no difference when they make their speeches.

Now, Shri N. Shivappa.

SHRI N. SHIVAPPA (Hassan): I am entering into this discussion with my tooth-and-nail opposition. I am going to concentrate on certain very vital points which carry the letter of the law with them, which go to the root of the right of the citizens of this country and also into the question of the violation of the constitutional guarantees given to them. It is this which I want to make the headline of my argument.

First, I would take up the objects and reasons of this Bill. The introduction of the terms 'cognizable' and 'bailable', the question of confiscating contraband articles as property subject to part investigation in any manner, the introduction of certain beautiful

words against the carrying out of the general law of this country, whether procedural or penal, such as 'intentionally, knowing or otherwise', and particularly the use of the word 'otherwise' are going to prove one important thing namely that this Bill which seeks to replace the ordinance, if passed by this House will result in the establishment of a police raj in this country, and the judiciary and the sanctity of the judiciary will be whittled down.

I would recall that the original Act itself was challenged. The entire nation has got its own opposition to this Bill, and has been making a repeated demand for the repeal of the Act of 1955 itself, especially in view of the fact that this country is not facing any emergency now. No doubt, every citizen has got his own patriotism, and he has got his own concern for the security of the country and for the facilities for defence which have to be given to his fellow beings even if it be at the cost of some lives. There can be no two opinions on this, but that does not mean that there is the political circumstance now also. The original Act had provided for sufficiently deterrent punishment of three years, which is now being enhanced further.

I would like to compare the hon. Minister to a doctor. He has a particular prescription for a particular disease, but that does not cure the patient, but on the contrary makes the disease worse, and then the doctor prescribes two doses, instead of one dose, of the same medicine. The fate of the patient will be nothing but his complete end. Likewise, the very purpose of the Act will be defeated by enhancing the punishment.

What has been the achievement of the law in operation so far? The hon. Minister was praising himself by referring to certain convictions which have been secured, and he feels that the entire nation should be converted into a nation of convicts. They do not

want the judiciary to operate, that judicial discretion should be allowed to the Judges, and so everywhere the word "shall" has been used in the Act; they are going to confiscate the right of the judiciary and the mouth of the judiciary will be closed, no option will be given to them. I would refer in this connection to sections 516 and 517 of the Criminal Procedure Code.

I do not know why the word "cognizable" has been introduced, why it should not be non-cognizable. If it is the intention of the legislation that there should be a fair trial, that good conscience has to be accorded, that equity and legal sense have to be there, to give an opportunity for fair justice to the man, the word "cognizable" should not be there, because if it is cognizable, he can be arrested any time. Nowadays, there is the psychology of jealousy prevalent everywhere in the country. Because of my jealousy if I give information to a police officer that such and such a person has done such and such a thing, it is sufficient, and the police officer will arrest him, and thus vengeance can be easily wreaked on anyone, and the man will not get an opportunity to go to court, though he may be able to get bail, because it is made bailable, but he may have to get the bail through the influence of a friend who is corrupt etc. If it is non-cognizable, the man will go to the court, the investigating authority must submit a report, and he must take the permission of the court.

MR. SPEAKER: Is it your intention that it should be made non-bailable?

SHRI N. SHIVAPPA: No. I am only pointing out the effect of its being cognizable.

The purpose of this legislation is only to take the entire law into the hands of the Government and see that no judicial discretion is left for a fair trial; a mere investigating officer, who may be a highly corrupt man, can behave in any manner. If the original

[Shri N. Shivappa]

Act has been enforced properly, there is absolutely no necessity to enhance the punishment.

Consequently, I wish to appeal to the hon. Minister to see that this must be made a non-cognizable offence because a person who is going to be alleged as the accused will get an opportunity and the police officer will get an opportunity to submit a report and if there is a *prima facie* case then only the court will give him the opportunity to investigate. Otherwise, this weapon of law can be utilised or used against any innocent man. When there is an intention, the *mens rea* is expected to have been proved and which is accepted as a principle of law in this country for all these ages, unless and until the intention is proved, the *mens rea* is going to be proved, the alleged person is presumed to be innocent. So, when he is presumed to be innocent, how can you confiscate the entire thing? Why this word "otherwise" is being used is the question.

Supposing I am having some article, unintentionally or unknowingly for certain reasons, when I am travelling in a train, somebody comes and keeps some article by my side and goes away, then, according to this provision, that article will be confiscated and I will be prosecuted! The question is, why should it be done.

**MR. SPEAKER:** He must conclude now. This must be finished before 6 O'Clock. There are others also who want to speak for two or three minutes. You are giving a major speech. Much has been said on the Unlawful Activities (Prevention) Bill already.

**SHRI N. SHIVAPPA:** This happens to be a very technical Bill with legal implications. Permit me to take another five minutes. I am just explaining the legal position. No option has been given anywhere in the Bill, much less to the citizen. The citizen is not given an opportunity for a fair trial. The only thing is, you just hand over the

man to the police! Experience in the country about so many State laws in all the other fields has proved that the Government have utterly failed in enforcing these laws. Without proper enforcement there is no necessity to enhance any conviction or sentence as the case may be.

The final point that I would touch is the question of summary trial. This is another very peculiar thing which the law-maker has introduced here, for the approval of the House. I am sorry to say that a punishment of one month's conviction is given without any provision for appeal. If a summary trial is made, there is no option for a cross-examination on vital problems and the judge's hand will be tied. It will relate only to a specific question. No cross-examination is provided on such a vital issue; no investigation. When so many records are produced, when the opportunity is not there for the alleged accused, how can he cross-examine to come to a conclusion that a case is proved or disproved? The person has to seek redress in the high court. There is no question of appeal at all here, if there is a summary trial. So, in the interests of justice, in the interests of giving a proper law to the country, a regular trial must be given for these vital problems.

Therefore, I feel that everyone of these amendments—and I may say that these are all odd amendments,—sections 3, 7 and 11—should go. It is a bad omen. Every law that has been brought ever since the present authority came into power has contributed a bad omen and the person who has brought this measure before the House also contributes a bad omen to the country. I appeal to the House that this kind of law should be dropped and any other better amending measure, if necessary, may be brought. I feel that there is no necessity at this present juncture to bring in such a measure through an ordinance. If necessary, a better amending Bill may be brought at any time.

**SHRI NAMBIAR (Tiruchirappalli):** Sir, I am in general support for this



measure. I am one with the Government on this measure. There is however one thing which must be mentioned. I have no hope, rather confidence, if they will be in a position to execute it properly and see that the essential commodities are supplied to the public. That fear is there. My difficulties are already well known. I wanted to focus your attention on the question of sugar and sugar prices. Here, the hon. Minister just now said that 60 per cent is now allotted to the rationing system and 40 per cent goes to the millowners for their own distribution. Even the other day, with the Minister of State in the Ministry of Food and Agriculture, I had a controversy on this point. He said this system will work and sugar price will come down. In Delhi today in the so-called white market of the black section....

**THE MINISTER OF STATE IN THE MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION (SHRI ANNASAHIB SHINDE)** : There is a crash in the Bombay market.

**SHRI NAMBIAR** : Maybe, but sugar is not available in Delhi for less than Rs. 5.

**MR. SPEAKER** : Mr. Gupta said it has come down to Rs. 3.50.

**AN HON. MEMBER** : Rs. 4.

**SHRI NAMBIAR** : I am getting reports from Madras also that we are not getting sugar. The Minister was threatening the other day that there was danger of a further fall in production due to difficulty about cane price, etc. When there is shortage, how can the prices come down? They will only legalise the blackmarket. How are you going to implement the provisions of this bill. There is a white market, black market and there is a legal market. How will you find out the stocks? If I am given 100 bags for fair distribution at Rs. 1.80 per kilo, I can mix it up with the white market and sell it at Rs. 4 making a lot of money in the process. How can you stop it? You might say there

is checking of stocks, etc., but all the mechanism is corrupt. Once the black market is legalised, there is no meaning in the rationing system. It will collapse. The two cannot go together. You are undoing whatever provisions you have brought in here by the opening of the white market in this way.

In Madras there is short-supply of black gram, Bengal gram and tur dal. There is a ban order in UP against moving dal and pulses outside. In Agra a businessman entered into an agreement with a supplier at Madras, but the UP Government refused to give a permit. We have large quantities of khandsari and black sugar in Madras and we will release it on a reciprocal basis if we get dal and other items from here. The two States are quarrelling. There are reports in the press, but the Centre is helpless.

Control is necessary, but it should be done properly and efficiently so that the people can get the necessary commodities. Otherwise, there is no purpose of control. I request that these essential food articles may be supplied at a quicker pace and without difficulty to the common man.

**SHRI M. SUDARSANAM (Narasaraopet)** : Sir, in this Bill which has been so ably moved by the Commerce Minister, I suggest that the word 'otherwise' must be eliminated from clause 7. This seeks to restrict the very fundamental right of a citizen, irrespective of considerations like social justice, etc. Clause 7 provides for punishment for a person who contravenes the provisions of this law "whether knowingly, intentionally or otherwise". This 'otherwise' will create serious hardship to the trading community especially from the rural sector. I, therefore, submit that this must be very seriously considered. I am also of the opinion that the Bill will not deliver the goods but will only increase corruption which is already there in the country. I request the hon. Minister to delete the word 'otherwise' and also to eliminate the 51 essential commodities from the Bill.

[Shri M. Sudarsanam]

If he can confine it to the essential food articles and oils it will be quite all right. There is no need for all other commodities to be included because the markets are coming down, we are having very good crop prospects inside and there will be no difficulty. I submit, therefore, that this may be done.

श्री मोल्लू प्रसाद (वांसगांव) : अध्यक्ष महोदय, जो विधेयक सदन के सामने है, प्रवर समिति में उस में कोई सुधार नहीं किया गया है। सरकार जोवनोपयोगी वस्तु कानून, 1966 में संशोधन करना चाहती है। और अधिक अधिकार लेना चाहती है। इस बिल में अधिक सजा देने की और गैर-दखलंदाजी वाले जुर्मों की दखलंदाजी वाले जुर्म बनाने की व्यवस्था की गई है। सरकार यह भी चाहती है कि जरूरी वस्तुओं की सप्लाई उचित मूल्य पर होती रहे। मैं मंत्री महोदय से यह निवेदन करना चाहता हूँ कि इस विधेयक में उचित मूल्य की परिभाषा नहीं दी गई है। क्या वह मूल्यों पर कोई इस तरह का नियंत्रण करेंगे, जिस से उत्पादनकर्ताओं और उपभोक्ताओं पर असर न पड़े? क्या सरकार अपने टैक्स और व्यापारी के मुनाफे में कोई कटौती करने जा रही है? सरकार को इस और भी ध्यान देना चाहिए।

देश में जब भी मूल्य बढ़ते या घटते हैं, तो उन का असर उत्पादनकर्ता और उपभोक्ता पर पड़ता है, सरकार के टैक्स और व्यापारी के मुनाफे में कोई अन्तर नहीं पड़ता है। मैं समझता हूँ कि महत्व अधिक अधिकार लेने का नहीं है। बल्कि उस के पालन का है। पिछले बीस वर्ष में सरकारी मशीनरी नाकामयाब रही है आज स्थिति यह है कि निजी क्षेत्र लालची हो गया है और सार्वजनिक क्षेत्र अयोग्य हो गया है। इस सरकार के रहते हुए अधिक अधिकार लेना या न लेना, अधिक कानून बनाना या न बनाना एक ही बात है।

अन्न की पैदावार बढ़ाने के लिए तो सरकार की तरफ से कई योजनायें चल रही हैं, लेकिन फसल की हिफाजत के लिए सरकार की तरफ से कोई कानून नहीं है। अगर कोई किसान की पांच एकड़ को फसल काट लेता है और वह धाने में रिपोर्ट लिखाता है, तो वह रिपोर्ट ताजीरात-हिन्द की दफा 426 के अन्तर्गत लिखी जाती है और उस में लिखा होता है कि यह अपराध पुलिस के हस्तक्षेप योग्य नहीं है। अगर कोई बदमाश किसी किसान की फसल काट लेता है, तो उस पर पुलिस के हस्तक्षेप वाला कानून लागू नहीं होता है। तो फिर फसल की हिफाजत कैसे की जा सकती है और देश की खाद्य समस्या कैसे हल हो सकती है? मेरा संशोधन है कि ताजीराते-हिन्द की दफा 426 में यह संशोधन कर दिया जाये कि फसल की चराई-कटाई पुलिस के हस्तक्षेप-योग्य अपराध है। इस सरकार का तो वही हाल है कि जो बच्चे पैदा नहीं हुए हैं, उन के लिए तो सब प्रकार की स्कीमें बन रही हैं और जो बच्चे पैदा हो गये हैं, उन की तरफ कोई ध्यान नहीं दिया जाता है। जब तक फसल की चराई-कटाई बन्द नहीं होगी, तब तक अत्यावश्यक वस्तु अधिनियम बनाने का कोई लाभ नहीं है। जैसा कि मैंने अभी कहा है, फसल की पैदावार बढ़ाने के लिए तो सब स्कीम्ज हैं लेकिन जो फसलें पैदा हो गई हैं, उन की रक्षा के लिए कोई स्कीम नहीं है। इस लिये फसल की चराई-कटाई को पुलिस के हस्तक्षेप-योग्य अपराध बना दिया जाना चाहिए।

इस के अतिरिक्त आवश्यक वस्तुओं की कीमत निर्धारित होनी चाहिए। जब तक इस बारे में कोई सीमा नहीं बांधी जायेगी, तब तक कानून बनाने से कुछ लाभ नहीं है।

श्री बेनी शंकर शर्मा (बांका) : अध्यक्ष महोदय, जब 14 नवम्बर को यह बिल प्रवर समिति के सुपुर्द किया गया, तो हमने

समझा था कि हमारा काम बहुत आसान हो जायेगा, क्योंकि जो एमेंडमेंट्स हम देना चाहते थे, वे वहीं मन्जूर हो जायेंगे। लेकिन मुझे दुख के साथ कहना पड़ता है कि यह बिल ज्यों का त्यों, अक्षत रूप में, बिना किसी सुधार के, बिना किसी कामा या फुलस्टाप को बदले वापस आ गया है।

जायंट सिलेक्ट कमेटी की रिपोर्ट में कहा गया है :

"While the Committee appreciate the laudable object underlying the Bill, viz., curbing of activities of unsocial elements, nevertheless, they would like to sound a note of caution to the Executive who should, in the course of the exercise of the powers under the proposed legislation, ensure that innocent persons are not subjected to harassment on purely technical grounds."

मेरे पास एक पुस्तिका है "दि एसेंशल कामोडिटीज एक्ट, 1955-ए फ्रेक्चुअल स्टडी आफ़ इट्स वकिंग"। इसमें कहा गया है :

"The Bill is not designed to regulate industry, this Bill is not designed to regulate the economy of the country."

लेकिन हम लोग देख रहे हैं कि इन आश्वासनों के बावजूद किस तरह से हमारे जीवन की सब उपयोगी वस्तुयें इस एसेंशल कामोडिटीज एक्ट के शिकंजे में जकड़ी हुई हैं। हमारी आवश्यक वस्तुओं का कोई ऐसा क्षेत्र नहीं है, जो कंट्रोल से अछूता हो, जिस पर कंट्रोल न हो। इस कानून के अनुच्छेद 2 में एक लम्बी-चीड़ी लिस्ट दी हुई है। मैंने अपने एमेंडमेंट में यह मांग की है कि चावल और गेहूँ को छोड़ कर बाकी के खाद्यान्न (foodgrains) आयरन एंड स्टील गूड्स और टेक्स्टाइल आदि अन्य चीजों पर कंट्रोल उठा दिया जावे।

जहां तक खाद्यान्न का सवाल है, हम चावल और गेहूँ का कंट्रोल थोड़े समय के लिये

मान भी लें तो जैसा श्री नम्बियार ने कहा है, मोटे अनाजों पर तो कंट्रोल की क्या आवश्यकता है? मैं कल ही रेडियो पर सुन रहा था कि चने का भाव उत्तर प्रदेश में 65.70 रुपये क्विंटल और मद्रास में 150 रुपये क्विंटल है। हम सोशलिस्टिक पैटर्न सोसायटी के अन्तर्गत आगे बढ़ रहे हैं, लेकिन एक ही चीज का भाव एक जगह 70 रुपये क्विंटल और दूसरी जगह 150 रुपये क्विंटल है।

मैं आपके माध्यम से मंत्री महोदय को अर्ज करूंगा कि वह कम से कम मक्का, चना, बाजरा, जो आदि मोटे अनाज की छूट दे दें और उन का खुला व्यापार होने दें। हम गेहूँ और चावल बड़े लोगों के लिए छोड़ देंगे और हम अपना पेट मोटे अनाज से ही भर लेंगे। जब फसल अच्छी हुई है, तो कम से कम मोटे अनाज से कंट्रोल हटा लिये जायें। आप जानते हैं कि कंट्रोल से बड़े-बड़े व्यापारियों का तो कुछ नहीं बिगड़ता, लेकिन छोटे-छोटे व्यापारी उसके शिकंजे में आ जाते हैं, उन पर तरह-तरह की मुसीबतें दाईं जाती हैं। उनको बेल तक भेजा जाता है। हर एक व्यापारी को जीने का हक है, व्यापार करने का हक है, लेकिन वह व्यापार करे तो किस चीज का, क्यों कि हर एक चीज पर तो कंट्रोल है।

जहां तक बड़े आदमियों का सवाल है, ऐसे कानूनों से उन्हें लाभ ही लाभ होता है। लाइसेंस और परमिट सब बड़े-बड़े आदमियों को ही दिये जाते हैं। हम मानोपत्नी को खत्म करने और हज़ारी रिपोर्ट की बातें तो करते हैं लेकिन मानोपनिस्ट्स और बड़े-बड़े व्यापारी घरानों को उसी तरह लाइसेंस बहुत बड़ी तादाद में दिये जा रहे हैं। हम कंट्रोल से यह आशा रखते हैं कि हम उनके द्वारा देश में सोशलिस्टिक पैटर्न आक्र. सोसायटी बना सकेंगे और हर एक मनुष्य को उसकी आवश्यकता की चीज उचित दाम पर बराबर प्राप्त होगी, लेकिन हम देखते हैं कि बड़े आदमियों को और बड़ा बनाया जा रहा है और गरीब

[श्री बेनी शंकर शर्मा]

और ज्यादा गरीब होते जा रहे हैं। मैं ऐसे आदमियों को जानता हूँ, जो सेकेंड बल्ड बार के जमाने में सिर्फ दस रुपये महीना पाने थे और कंट्रोल और परमिट की वजह से आज दस करोड़ रूपयों की एक नहीं, कई कम्पनियां चला रहे हैं।

अध्यक्ष महोदय अब मैं इस विधेयक की कुछ बातों की ओर आपका ध्यान आकर्षित करना चाहता हूँ। इसमें पेज ५ पर कहा गया है :

"any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit including any packages, coverings or receptacles in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property, shall be forfeited to the Government :"

18 Hrs.

अध्यक्ष महोदय, यह मैं समझता हूँ कि यह एक बहुत ही खतरनाक क्लॉज है। आप एक उदाहरण लीजिए। आप कार में मद्रास जा रहे हैं, आपका ड्राइवर भी है, नौकर भी है और वह पांच किलो चावल ले जाता है। आप उसको जानते नहीं। लेकिन इस क्लॉज के रहते हुए आपकी गाड़ी उस पांच किलो चावल के कारण जब्त की जा सकती है। हम लोग जानते हैं, जितना बड़ा और जैसा अपराध होता है, उसी के मुताबिक सजा होती है। आप कार के मालिक हैं और इस क्लॉज के मुताबिक बिना किसी अपराध के आपकी यह कार जब्त की जा सकती है क्या यह उचित है मैं माननीय मंत्री महोदय से आपके माध्यम से प्रार्थना करूंगा कि वे कम से कम इस क्लॉज को तो हटा दें।

मेरे जो अमेंडमेंट हैं उसमें मैं खास ध्यान दिलाना चाहता हूँ कि सब-क्लॉज 6, 9, 10 और 11 को हटा दिया जाय। इन चीजों पर आज कंट्रोल की कोई आवश्यकता नहीं है। इनके ऊपर कंट्रोल का मतलब होता है कि

हम बड़े आदमियों को लाइसेंस देते हैं, उन्हें परमिट देते हैं। अगर बाजार में कम्पीटीशन हो तो बहुत से आदमी उसमें काम करेंगे। उसमें उस कम्पीटीशन के अन्दर जितना मुनाफा हो सकेगा वही वह कर सकेंगे। मैं ऐसे-ऐसे व्यापारियों को जानता हूँ जो लड़ाई के पहले कपड़े का काम करते थे और जो केवल बारदाना के मुनाफे पर काम करते थे। सैकड़ों आदमी कारोबार में लगे थे। आज आप एक आदमी को लाइसेंस देते हैं। वह अपने टर्म्स पर बिक्री करता है और आप के जो आफिसर्स हैं उनकी खुशामद से आगे बढ़ता जाता है। आज यहां सप्लाय आफिसर्स का और कंट्रोलर्स का राज फैला हुआ है। यह जितने सप्लाय आफिसर्स हैं और कंट्रोलर्स हैं वह किस कैंरेक्टर के आदमी हैं, किस मेटल के बने हुए हैं यह आप देखिए। एक ऐसा विश्वास सर्किल बन गया है कि वह घूस लेते हैं जो व्यापारियों को देनी पड़ती है और उसके कारण वह ब्लैक मार्केटिंग करते हैं क्योंकि अगर ब्लैक मार्केटिंग न करें तो कहां से लायें? इस प्रकार एक यह विश्वास सर्किल बन जाता है और उसके कारण यह ब्लैक-मार्केटिंग और भ्रष्टाचार बढ़ता रहता है। इसलिए यह आवश्यक है कि हम लोग इस कंट्रोल को हटायें।

अध्यक्ष महोदय, एक मिनट और लूंगा। मैं और मेरी पार्टी आप जानते हैं कि कंट्रोलों के विरुद्ध है। हम केवल एक ही कंट्रोल चाहते हैं और वह श्रीमती इन्दिरागांधी के उस परिवार पर, मेरा मतलब उनके मंत्रिमंडल के परिवार से है.....

SHRI NAMBIAR : Family of ministers !

SHRI BENI SHANKAR SHARMA : Yes, family of ministers. I did not mean her family.

जब हमारे यहां मुख्यमन्त्री है, हमारे यहां अकाल है उस स्थिति में यह मिनिस्ट्रों की फीज क्यों बढ़ायी जा रही है? अगर कंट्रोल किसी चीज पर होना चाहिए तो केवल एक

इसी चीज पर होना चाहिए न कि और किसी चीज पर। इस सिलसिले में मुझे एक छोटी सी कहानी याद आती है। एक बुढ़िया के बहुत दर्द हो रहा था। उसने अपने लड़कों से कहा कि मुझे किसी मिनिस्टर के पास ले चलो। लड़कों ने पूछा कि मिनिस्टर के पास ले चलने से क्या होगा? उसने कहा कि तुम ले तो चलो। वह किसी तरह ले गए। बुढ़िया ने वहां पहुंच कर कहा कि मेरे यहां पर दर्द हो रहा है तुम जरा हाथ लगा दो। मिनिस्टर ने कहा कि मेरे हाथ लगाने से क्या होगा? किसी डाक्टर के पास जाओ। उसने कहा कि नहीं, बेटा तुम जरा हाथ लगा दो। तुमने केरोसिन पर हाथ लगाया, वह बाजार से गायब हो गया, कपड़े पर हाथ लगाया वह भी गायब तो अगर तुम मेरे दर्द पर हाथ लगाओगे तो वह क्यों नहीं गायब होगा? और यह कहा जाता है कि उसके छूने से बुढ़िया का दर्द भी गायब हो गया।

MR. SPEAKER: There are three or four speakers more—Shri Srinibas Misra, Shri Dhireswar Kalita, Shri Sharma and Shri R. Barua. If each one of them takes two minutes, I can call all four of them.

SHRI DHIRESWAR KALITA (Gauhati): Sir, I have no difference about this Bill; they can take more powers provided, as Shri Nambiar has said, the essential commodities are supplied. But we do not get them.

श्री प्रतापबीर शास्त्री (हापुड़) : हाफ ऐन  
अवर का भी है। वह कब होगा?

MR. SPEAKER: I have said that they must finish quickly. It will be finished in 10 or 15 minutes. Then the half-an-hour discussion can be taken up.

SHRI DHIRESWAR KALITA: During the last 15 years the profiteers have been earning more and more. Blackmarketeers have become big black marketeers; hoarders have become big hoarders. That is what has

happened during the last 20 years. You want take more powers provided you can control them. But I see there is no such intention.

Some days back, when Mr. Jyotirmoy Basu raised the question of some wagons of dal lying unloaded at Howrah station, we heard the hon. Minister, Mr. Jagjivan Ram, saying that he would take proper action if they do not unload the wagons in proper time. But no action was taken. The wagons of dal were in the name of one Mr. Aggarwal, a foodgrains merchant, and it is the same Mr. Aggarwal who garlanded Mr. P. C. Ghosh on becoming the Chief Minister. Is it the intention of the Government to control prices? I want to know from the Government. You can have more powers—that does not matter—to bring to book those hoarders, profiteers and black-marketeers. Panditji wanted to hang black-marketeers at the nearest lamp post. Panditji is dead; Shastriji is also dead. Now, a new Prime Minister has come and she wants more powers to control this. I think, they will not control this. Mr. Aggarwal garlanding Mr. P. C. Ghosh is not the way. This is not the way.

About sugar, it is being sold at Rs. 5 or Rs. 6 or Rs. 8. Mr. Shinde is present here and he knows that. I submitted a Short Notice question which was not accepted; the Call Attention was also not accepted. In Assam, sugar price is Rs. 8 a kilo. Now, 60,000 tonnes of sugar have been given for open sale from 23rd November, 1967. I do not know how many crores of rupees the mill-owners are earning. Have the prices come down? You have brought sugar under this Act. Have you controlled the price of sugar. In Assam, we are having sugar at Rs. 8 a kilo. In Delhi, the price of sugar is Rs. 4.50 p. or Rs. 5 a kilo. It is not their intention to control the price. You can take more powers provided you can control it. You do not intend to control it. You are only deceiving the public by enacting this measure. You want to show to the public that you are against corruption. But, really, you are not against corruption. You

[Shri Dhireswar Kalita]

are helping the corruption to grow. You are not fighting corruption. You are only helping those corrupt officials by giving them executive powers and machinery to earn more money under the garb of this Act.

SHRI D. C. SHARMA (Gurdaspur) : I want to make only two points. The hon. Member from that side just said that so and so was garlanded by some black-marketeer. He does not know that when we win elections, the first person to garland us is the person who has been opposing us tooth and nail. What can we do about it? That is so all over India.

Let us take the positive aspect of the Bill. The first positive aspect is that if we pass this Bill, we guarantee every citizen of India, be it a class 4 man or a class 1 man, all the essential commodities at reasonable prices. There will not be any difference between Delhi and Madras, that the gram is sold at Rs. 65 a quintal here and at Rs. 145 a quintal there. That is the first guarantee that you get by passing this Bill. If the Government is not able to give that guarantee, I think, it is no use passing the Bill.

SHRI DHIRESWAR KALITA : The Ordinance was there; they could not control the price.

SHRI D. C. SHARMA : Then the second one is this. We give guarantee to our military personnel that they will not run short of their rations. I do not want to go into this question. I know much more about it than many other persons do. In any case, whether they are fighting actively or they are somewhere else, certain guarantees are given.

The third guarantee that we are giving by means of this Act is this. At present there are three types of markets. There is the free market, then there is the legal market which our friends have set up and then the most effective, the most serious and the most dangerous market is the thrice black-market. It is not black-market. We can put up with the black-

market. The English people talked of black-market in the Second World War. But now the market is getting blacker, blacker and blacker. By means of this Act, the Government guarantee to the people that the black market will be wiped off, that there will not be any anti-social elements left, that the hoarders and the profiteers will be wiped off.... (Interruptions)

MR. SPEAKER : He may try to conclude.

SHRI D. C. SHARMA : Mr. Speaker, Sir, you are a gentleman of very enlightened understanding....

SHRI NAMBIAR : The latest definition of Speaker !

SHRI D. C. SHARMA : They have imposed penalties on all those persons who carry them on vehicles or bullock-carts. They have imposed penalties on all those who indulge in anti-social activities. They have included all kinds of essential commodities in the list of commodities. They have done very well by that. But they have forgotten to do one thing. They have forgotten to penalise these persons—they should have been a part of this. I do not know what the Select Committee was doing. Of course, I have respect for them, I have respect for everybody. But I do not know what the Select Committee was doing. They should have penalised also those persons who encourage or abet or advise or aid or supply anything or supply something to the black-market. I do not find that class of people in this Bill. As long as this clause is not put, they will say that it is not there. If you do not put that clause here, I tell you, the whole of this Bill becomes a house of cards, the whole of this Bill becomes infructuous.

MR. SPEAKER : He may conclude.

SHRI D. C. SHARMA : You are kind to me, Sir.

MR. SPEAKER : Then, he must also be kind to me.

SHRI D. C. SHARMA : I will just conclude.

Anybody who is indulging directly or indirectly in any kind of anti-social activity will be punished drastically, but, Sir, I will tell you one thing. It is not legislation that will do that. It is public opinion that will do that. You know, Mr. Winston Churchill, Sir. You are a very great reader of books; you must have read his memoirs. When the Second World War was being fought, in Great Britain, I think, they were giving per week two eggs per family or per man; I do not remember. But, if they found that anybody was getting eggs from the black-market, nobody would speak to him. Here is my friend who says that somebody garlanded the Chief Minister of his State. I say, it should become an article of faith with these persons. It should be an essential part of the code of conduct of Ministers and M.Ps. also that they will not shake hands, why shake hands, they will not even nod to those persons who indulge or are reputed to have indulged in any kind of black-marketing activity.

Now, my friend from Kashmir is one of the innocent sons of India.

MR. SPEAKER: Mr. Sharma, we are losing time. Please conclude.

SHRI D. C. SHARMA: I wish that the Raja Saheb was here because I would have then posed it to him eloquently. He is a good man. Who knows India as well as I do? He has not been able to do all this. They should feel that the Bill should be such as it can assure the common man that he will get all essential goods at equitable prices whether he is living in Pathankot or Cape Comorin, in Dibrugarh or in some other place. Unless that is there this Bill is of no use.

SHRI SRINIBAS MISRA (Cutback): Sir, while extending the general support to the purpose of the Bill on behalf of my Party I have to observe that this Bill is an attempt, rather a half-hearted attempt to do something in the right direction. It is perhaps the result of pulls from opposite forces on the Ministry that has led to the Bill L104LSS/67-14

being a truncated one. Sir, you will see that the purpose of the Bill is to take sugar within its fold, 60% of which will be controlled and 40% de-controlled. Black-market flourishes when there is shortage, but there is no black market without control. That black market high price becomes the price, which is not black market price. But two types of sugar are being sold, one at Rs. 2.50, side by side, the same vendor selling it at Rs. 5 or Rs. 6 or Rs. 8 as one hon. Member narrated. How is the Government going to control this? This will encourage black-market more. Is the Minister conceiving of any idea to collar one type of sugar as in petrol so that one is Rs. 5 and another is controlled sugar. How is he going to give effect to this?

SHRI V. KRISHNAMOORTHY: Even for Vanaspati they have not done so far. How are they going to do it here?

SHRI SRINIBAS MISRA: The second thing is: an attempt is made to make the person who unintentionally also contravenes the provisions to be convicted. But there is some inconsistency.

We see the purpose that led the Government to add these words 'intentionally, unintentionally or otherwise' is defeated because the hon. Minister would kindly see 'if any person contravenes' is there. 'Intentionally' or 'unintentionally' the person must contravene. Therefore, in spite of all your attempts, the question of *mens rea* is not taken away. Perhaps the Government will face the court when they will say that 'a person contravenes that' means a policy on his part which will again bring in *mens rea*.

Now the third point is about the amendment regarding animals. I would advise the hon. Minister to open a pinjra pole because animals shall be taken. So now persons who will try to contravene, even those persons who are lover of cows and cattle, will put all sorts of contraband articles on decrepit, old, diseased cows and hackneyed horses and just put them before the authorities. What is the effect? 'Shall be forfeited to the Govern-

[Shri Srinibas Misra] ment'. Therefore, the hon. Minister must try to open a pinjrapole to take control of these animals.

Thank you, Sir.

**SHRI HIMATSINGKA (Godda) :** The provisions of the Bill are made applicable to technical offences also. There is no harm in enhancing the penalty in cases of real offences in charging higher prices or for secreting commodities. But if a man does not show the price on the notice board or does not enter the stock in the records almost immediately he also comes within the mischief of this penal section in the same way. That being so, the penal provision becomes very severe in his case. The result is that the very intention of the Act is defeated. When the case comes before the magistrate and he finds that the offence is a clearly technical one, his sympathy goes to the accused.

Moreover, the Act is being extended to a large number of commodities which are not really essential in the sense of foodstuffs or things like that. It is now going to be extended to motor parts and various other things. Therefore, the provisions that have been made really become very oppressive. The result will be that business people dealing in these commodities will make payments to the inspectors and others and add that to the price of the article. What has been happening at present is that there is a regular arrangement by which payments are made to inspectors who come to inspect.

**MR. SPEAKER :** That goes on in a routine way!

**SHRI HIMATSINGKA :** Unless the Act is properly applied, it can never be effective. There is no correct policy in this regard.

I will cite an instance. 200 wagons of maize were despatched with the permission of the Haryana Government to Calcutta. But they have been

seized by Central Government. But the commodity has not been released into the market. If that had been done, the price would have come down. It has been seized and will remain in the custody of the police for a number of months, perhaps years. The result will be that the consumers would be denied that commodity.

Therefore, there must be some method devised of making the commodity available to the consumers so that the prices may go down. Otherwise, the Act will become meaningless and will stand in the way of the achievement of the objective we have in view.

**SHRI MOHD. SHAFI QURESHI :** My reply will be very short. The vires of the Bill were questioned in the Select Committee also and we had a discussion there on that. I would like to draw the attention of the hon. Member who raised this point here also to art. 31(5) which says :

"Nothing in clause (2) shall affect the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or penalty."

So the confiscation will be a penalty on the person from whom the property has been taken away. So it is not *ultra vires* the Constitution.

**SHRI V. KRISHNAMOORTHU :** Cl. 5 does not apply to the clause we are making. It applies to the Act which was in force before 1950.

**SHRI MOHD. SHAFI QURESHI :** That ruling was also discussed. It would not come in the way of the present Bill.

One or two points ought to be replied to. One point made was that we have been harsh in giving punishment to certain people who contravene this Act. I want to make it clear that we do not mean any harshness to the general public as such. For instance, so far as the confiscation clause is concerned, we cannot confiscate foodgrains from the producer. So any-



body who produces foodgrains is exempt from confiscation. When the authorities think of confiscating a particular commodity declared an essential commodity under Act, they have to give notice in writing informing him of the grounds on which it is proposed to do so. Then he is given an opportunity of making a representation within such reasonable period of time as may be specified in the notification. He is given a reasonable opportunity of being heard in the matter. Then against this order, he can go in appeal. So this particular clause is not very harsh.

The other point made was that the poorer sections of the community who owned some packages or horses or mules would also be troubled. In the amended Act, it has been very clearly provided that it is left to the discretion of the court. It says :

"any property in respect of which the order has been contravened or such part thereof as the court may seem fit including any packages, coverings or receptacles in which the property is found and any animal....."

So every care has been taken to see that the law should not become a harassment or botheration for the general public.

Regarding the sugar question raised by Shri Nambiar and others, there was a discussion on that here some time ago when my hon. colleague, Shri Shinde, explained government policy. I think there has been no change since then. I think we should be hopeful that conditions will improve and the measures taken in the matter of control will prove to be in the interest of the community without causing any hardship.

MR. SPEAKER : There is an amendment by way of a motion for circulation. The question is :

"This House is of opinion that the *Essential Commodities (Second Amendment) Bill 1967*, be referred to the President for ob-

taining the opinion of the Supreme Court under art. 143 of the Constitution on the question of constitutional validity of the Bill."

*The motion was negatived.*

MR. SPEAKER : The question is :

"That the Bill further to amend the *Essential Commodities Act 1955* and to continue the *Essential Commodities (Amendment) Act, 1964*, for a further period, as reported by the Select Committee, be taken into consideration".

*The motion was adopted.*

MR. SPEAKER : The amendments are not being moved. So I shall put all the clauses together. The question is :

"That clauses 1 to 11, the Enacting Formula and the Title stand part of the Bill".

*The motion was adopted.*

*Clauses 1 to 11, the Enacting Formula and the Title were added to the Bill.*

SHRI MOHD. SHAFI QURESHI : I beg to move :

"That the Bill, as reported by the Select Committee, be passed."

MR. SPEAKER : The question is :

"That the Bill, as reported by the Select Committee, be passed."

*The motion was adopted.*

MR. SPEAKER : We shall start the half hour discussion sought to be raised by Shri Prakash Vir Shastri now. Let us all continue sitting till 8 P.M. and dispose of all the three items on the agenda.

SHRI KANWAR LAL GUPTA : How can we finish it? At 7 P.M. the discussion regarding the recent earthquakes will start.

MR. SPEAKER : Unless earthquakes comes here, we will continue sitting and devote half an hour to each of the remaining items on the agenda.

SHRI NATH PAI (Rajapur) : I fully endorse the plea made by Shri K. L. Gupta that the destruction caused by

[Shri Nath Pai]

the floods is a very serious matter on which the House should have the opportunity of a full discussion. We can do that day after tomorrow.

MR. SPEAKER: That is a different matter. I have no objection. But we will try to finish it because day after tomorrow something more serious may crop up. Therefore, to the extent possible, we shall clear the agenda of today by giving half an hour to each item. Tomorrow something is already on the agenda.

18.23 hrs.

RE: COMMON CIVIL CODE\*

श्री प्रकाशवीर शास्त्री (हापुड़) : देश के सभी नागरिकों के लिए समान आचार संहिता या कामन सिविल कोड बनाने के सम्बन्ध में आगे घंटे की जिस चर्चा को मैं उठा रहा हूँ वह चर्चा उस समय भी उठी थी जिस समय भारत का संविधान तैयार हो रहा था। उस समय कुछ लोग इस प्रकार के थे संविधान सभा में जिन्होंने इस बात का विरोध किया था कि संसद को इस प्रकार की समान आचार संहिता सभी देश के नागरिकों के लिए बनाने का कोई अधिकार नहीं है। लेकिन उस समय के जो न्याय शास्त्री थे जिनमें प्रमुख डा० अल्लादी कृष्णस्वामी अय्यर, श्री के० एम० मुंशी और स्वयं उस समय के विधि मंत्री डा० अमबेदकर थे, इस बात का समर्थन उन्होंने किया कि संसद को इस विषय में पूर्ण अधिकार है। उसी आघार पर इस संसद ने हिन्दू कोड बिल के सम्बन्ध में भी आगे चल कर विचार किया गया। इस प्रश्न को लेकर जिस पर संविधान सभा में एक सम्झौता चर्चा चली थी, इस सदन में भी समय-समय पर कुछ प्रश्न उठते रहे हैं जिनका उत्तर विधि मंत्रालय की ओर से जो आया उसमें और अब जिस प्रश्न पर मैं चर्चा उठा रहा हूँ उसमें एक बहुत बड़ा अन्तर है।

[SHRI S. M. JOSHI in the Chair]

सब से पहले एक प्रश्न इसी प्रकार का आया था 17-5-1964 को जिसका उत्तर उस समय के उप विधि मंत्री श्री विभुषेन्द्र मिश्र ने दिया था और उन्होंने अपने उत्तर में कहा था कि ला कमिशन की पंद्रहवीं और बाईसवीं रिपोर्ट के आघार पर जो उन्होंने हमको सुझाव दिया है कि ईसाइयों के विवाह कानून के सम्बन्ध में संसद को परिवर्तन के लिए विधेयक लाना चाहिये। इसी प्रकार के एक प्रश्न का उत्तर देते हुए 17 मई 1967 को उस समय के विधि मंत्री श्री पट्टाभि रमन ने यह कहा कि यह हमारी हार्दिक इच्छा है कि एक समान संहिता देश के सभी नागरिकों पर जो लागू हो उस प्रकार का एक विधेयक हम इस संसद में लायें लेकिन उसके लिए अभी कुछ समय की अपेक्षा है। फिर उसके बाद 25 जुलाई 1967 को उप-विधि मंत्री श्री डी० आर० चव्हाण ने एक प्रश्न का उत्तर देते हुए कहा कि हमने इस संबंध में प्रांतीय सरकारों से कुछ परामर्श मांगे हैं कि विवाह और उत्तराधिकार के बारे में सबके लिए एक समान कानून बनाने के बारे में उनकी क्या सम्मति है? उसमें मैसूर, आसाग, हिमाचल प्रदेश, मणिपुर, दादरा नगर हवेली, इनकी इसके पक्ष में सम्मति आई और काश्मीर, नागा लैण्ड, राजस्थान और केरल विपक्ष में थे। महाराष्ट्र का कहना यह है कि एक कमीशन इस काम के लिए नियुक्त किया जाय। उड़ीसा सरकार भी इससे सहमत थी लेकिन उसका कहना था कि अभी इसे बहुत शीघ्रता न की जाय। इस समय के जो विधि मंत्री हैं श्री गोविन्द मेनन उन्होंने स्वयं 11 जुलाई 1967 को इसी प्रकार के एक प्रश्न का उत्तर देते हुए यह कहा कि इस संबंध में मुस्लिम महिलाओं के विचार जानने के बाद संसद में आवश्यक कानून पेश करेंगे। पहले उनकी राय जान लें। भारत सरकार ने पहले इस संबंध में एक समिति गठित करने का भी निश्चय किया था लेकिन सभापति जी कुछ राष्त्रपतिक

\*Half-An-Hour Discussion.