

to defray the charges which will come in course of payment during the year ending the 31st day of March, 1965 in respect of 'Public Works'."

**DEMAND No. XLVII—CAPITAL OUTLAY
ON PUBLIC WORKS**

"That a Supplementary sum not exceeding Rs. 200 be granted to the President out of the Consolidated Fund of the State of Kerala to defray the charges which will come in course of payment during the year ending the 31st day of March, 1965, in respect of 'Capital Outlay on Public Works'."

**DEMAND No. XLVIII—CAPITAL OUT-
LAY ON OTHER WORKS**

"That a Supplementary sum not exceeding Rs. 100 be granted to the President out of the Consolidated Fund of the State of Kerala to defray the charges which will come in course of payment during the year ending the 31st day of March, 1965, in respect of 'Capital Outlay on Other Works'."

**DEMAND No. LV—LOANS AND
ADVANCES BY THE GOVERNMENT**

"That a Supplementary sum not exceeding Rs. 2,50,000 be granted to the President out of the Consolidated Fund of the State of Kerala to defray the charges which will come in course of payment during the year ending the 31st day of March, 1965, in respect of 'Loans and Advances by the Government'."

14.30 hrs.

**STATUTORY RESOLUTION RE:
ESSENTIAL COMMODITIES (AM-
ENDMENT) ORDINANCE, 1964
AND ESSENTIAL COMMODITIES
(AMENDMENT) BILL**

The Minister of Food and Agriculture (Shri C. Subramaniam): Sir, I beg to move. . .

Mr. Deputy-Speaker: Let Shri Bade move the Resolution first.

Shri Bade (Khargone): Sir, I beg to move:

"This House disapproves of the Essential Commodities (Amendment) Ordinance, 1964, (Ordinance, No. 3 of 1964) promulgated by the President on the 5th November, 1964."

Shri C. Subramaniam rose—

Mr. Deputy-Speaker: I will put the Resolution before the House. Reso-
tion moved:

"This House disapproves of the Essential Commodities (Amendment) Ordinance, 1964, (Ordinance No. 3 of 1964) promulgated by the President on the 5th November, 1964."

Shri C. Subramaniam: Sir, this is the third time I am attempting to speak, and I hope I will now be permitted!

I beg to move:

"That the Bill further to amend the Essential Commodities Act, 1955 and the Criminal Law Amendment Act, 1952, be taken into consideration."

This Bill is intended to replace the Essential Commodities (Amendment) Ordinance, 1964 promulgated by the President on 5th November, 1964, the life of which would expire by about the end of this month. Before we take up the salient features of the Bill, I wish to draw the attention of the hon. Members to the exigencies of the present food situation. Hon. Members are no doubt aware that the question of controlling the prices of foodstuffs and other essential commodities and ensuring supply and distribution in adequate quantities of these commodities has been engaging the close and constant attention of the Government especially from the middle of this year. There is widespread public criticism of the manner in which the trade and middlemen were able to circumvent and render ineffective the legal and administrative measures devised for the maintenance of supplies essential to the community and for bringing about a stable price level.

Addressing the State Chief Ministers on October 26, 1964, the Prime Minister called for quick and effective action against traders who sell foodgrains at prices higher than those fixed by Government and suggested providing for summary trials of offenders with a view to making the implementation of control measures a success.

The procedure for summary trials is contained in Sections 260 to 265 in Chapter XXIII of the Criminal Procedure Code. Under these provisions any District Magistrate and any Magistrate of the first class especially empowered by the State Government may, if he thinks fit, try in a summary way offences not punishable with death, imprisonment for life or imprisonment for a term exceeding 6 months. Several offences punishable with imprisonment for a term exceeding 6 months have also been mentioned in the Chapter as falling within the scope of summary trials.

The only offences somewhat relevant for our present purpose are those relating to weights and measures under Sections 264, 265 and 266 of the Indian Penal Code. The intention underlying the promulgation of the Ordinance and its replacement by the present Bill by inserting a Section 12A in the Essential Commodities Act and Section 8A in the Criminal Law Amendment Act, 1952 is to make it mandatory for a Magistrate of the first class specially empowered by the State Government or a Presidency Magistrate to adopt the summary procedure laid down in the Criminal Procedure Code for trying persons charged with contravention of orders made under the Essential Commodities Act. Similarly, a special judge shall try any offence allegedly committed by a public servant in relation to contravention of the orders made under the Essential Commodities Act. In this case also the summary procedure would apply. Under Section 262 of the Criminal Procedure Code, the Magistrate cannot pass, while convicting, in summary trials, a sentence of imprisonment for a term exceeding 3 months. As the Government feels that the imposition of deterrent punishment against food offenders is called for, it has been specifically provided in the Bill in the proviso to sub-section (2) of the proposed Section 12A of the Essential Commodities Act that it shall be lawful for a Magistrate to pass a sentence of imprisonment for a term not exceeding one year. Under Section 414 of the Code, it will be possible for a person convicted in a summary trial with a sentence of fine exceeding Rs. 200 to appeal to superior courts. Below Rs. 200 no appeal lies. In the present Bill, a specific provision has been made for making non-appealable a sentence of imprisonment not exceeding one month or of fine not exceeding Rs. 2,000 or both.

Public servants who may be charged with the abetment of crimes under food laws are also required to be

[Shri C. Subramaniam]

treated in the same way as the perpetrators of the food offences. Therefore, similar provisions have been made in the Criminal Law Amendment Act by the insertion of a new Section 8A.

Besides the Essential Commodities Act, while the Proclamation of Emergency is in force, the Government have additional powers under the Defence of India Act and Rules for dealing with the situation calling for deterrent action. Powers have been conferred on the Government to constitute the Special Tribunals with greatly abridged procedure under Chapter IV of the Defence of India Act, to order detentions under rule 30 of the Defence of India Rules and to notify under sub-rule (4) of rule 154 the offences for which summary procedure would be adopted. Under rule 125 of the Defence of India Rules, the Central Government and the State Governments have powers to control the prices and regulating trade of articles of any description. However, the Defence of India Act and the Rules are of a temporary nature while the provisions for summary procedure and provision for non-appealable sentences may be needed even after the revocation of the Proclamation of Emergency. From this angle it was considered desirable to make modifications in a permanent statute like the Essential Commodities Act rather than temporary enactments like the Defence of India Act and the Rules made thereunder.

It is now some time since the Essential Commodities Ordinance has been promulgated. During this interim period Government had the opportunity to review some of the provisions in the Ordinance. In the interim period the question has been reviewed and the Government considers that it is desirable to make certain additional provisions in the present Bill as compared to the provisions in the Ordinance.

Under the new provision, a notification would have to be issued by the Government specifying the particular order as the special order for the purpose of adopting the summary procedure for trial of offences under the Order. A question will naturally arise as to what will happen to cases of contravention of the special order on the date the notification is made. It is proposed to lay down that where no witnesses have been examined before the said date, it would be tried in a summary way; otherwise, if, however, witnesses have been examined, summary procedure would not apply for that particular case. Similarly, it has been laid down that if any case is pending before a Magistrate who is not competent to try it in a summary way under the proposed Section, it shall be forwarded to the competent magistrate. Section 7 of the Essential Commodities Act contains provisions for forfeiture of property under orders of the Court in certain circumstances. In the specific provisions regarding this matter made in the Bill, it has been laid down that whether or not any order of forfeiture of property or an order under Section 517 of the Criminal Procedure Code is made in addition to a sentence passed by the concerned Magistrate an appeal shall lie to a higher court only where a magistrate passes a sentence of imprisonment in excess of one month or fine exceeding Rs. 2,000 or both.

Having regard to the stringency of this new law, Government considers that its duration should be limited. I may draw the attention of the hon. Members to clause 1(3) of the Bill which lays down that these new provisions shall cease to operate after 31st December, 1966. A specific provision has also been made that the notification issued under the new provision specifying the special orders for the purposes of the introduction of the summary procedure for trial shall be laid before both the Houses of Parliament, as soon as such a notification is issued. This would no doubt give an opportunity for Parliament to be kept

informed of the implementation of the new provisions sought to be introduced in the substantive law for the control of prices and regulation of trade and commerce relating to the distribution of foodstuffs and other essential commodities.

Sir, I commend the provisions of the Bill for the consideration of the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Essential Commodities Act, 1955 and the Criminal Law Amendment Act, 1952, be taken into consideration."

This Bill and the original Resolution are now before the House. Three hours' time has been allotted for discussion of both. A large number of Members are anxious to speak. (*Interruption*). The Business Advisory Committee has allotted the time. I would request Members to be brief.

Shri Bade: You may please give two hours more.

Shri Ranga (Chittoor): You may exercise your authority and give us at least one hour more. A number of Members want to speak.

Mr. Deputy-Speaker: We shall see. Shri Bade.

श्री बड़े : उपाध्यक्ष महोदय, यह मैं ने जो रेजोलूशन दिया है वह आर्डिनंस के खिलाफ़ दिया है। आर्डिनंस या अध्यादेश जारी करने की कोई ज़रूरत नहीं थी। आर्डिनंस जारी करने और उस को अब रिप्लेस करने के लिए मंत्री महोदय ने जो संशोधन विधेयक रक्खा है उस के लिए मंत्री महोदय ने अपने स्टेटमेंट और श्रीबजैक्ट्स एंड रीज़ंस में दो कारण बतलाये हैं। उसमें एक कारण यह है जोकि अभी माननीय मंत्री ने अपने व्यवक्तमें लिखा है :—

"There has been widespread public criticism of the manner in

which some sections of the trade and middlemen were able to get round, and render ineffective, the legal and administrative measures devised for the maintenance of supplies essential to the community."

मैं उस के खिलाफ़ नहीं हूँ। मैं आरम्भ में ही यह चीज़ बिलकुल स्पष्ट कर देना चाहता हूँ कि यदि कोई ब्लैक मार्केटर है, प्रीफ़ीटियर है, आम लोगों को भूखा रख कर अपनी रोटी सँकता है तो ऐसे व्यक्ति को कड़ी से कड़ी सज़ा दी जाय। लेकिन शासन ने जो अध्यादेश जारी किया है, उस का कारण केवल यह है कि चूँकि उस ने इस सम्बन्ध में बहुत गलतियाँ की हैं, इसलिए, उस पर प्रैगर डाला गया और उस ने जनता के रोष को टालने के लिये दूसरे पर जिम्मेदारी थोपने का प्रयत्न किया है। यह आर्डिनंस निकाल कर उस ने जनता को यह बताने का प्रयत्न किया है कि हम सब कार्यवाही कर रहे हैं। एक प्रकार से इलैक्ट्रिक शाक देना कांग्रेस गवर्नमेंट का लक्ष्य रहता है। जिस प्रकार मॅन्टल डिज़ीज़ के लिए किसी व्यक्ति को इलैक्ट्रिक शाक दिया जाता है या उस का माइंड डाइवर्ट किया जाता है, उसी प्रकार भूखमरी से तस्त जनता का माइंड डाइवर्ट करने के लिए शासन ने यह आर्डिनंस निकाल दिया और यह प्रकट किया कि हम ने सख्त से सख्त सज़ा देने के लिये यह कदम उठाया है।

लोगों की आँखों में धूल झाँकने के लिए आग कहा गया है :

"...and further, as the provisions of the Defence of India Act and Rules, 1962 were temporary and liable to lapse on the revocation of the Proclamation of Emergency, it was considered advisable to effect amendments in permanent statutes, namely, the Essential Commodities Act, 1955, and the Criminal Law Amendment Act, 1952."

[श्री बड़े]

शासन का कहना है कि चूँकि प्रोक्लेशन आफ़ इमर्जेन्सी के रिवोक होने पर डिफ़ेंस आफ़ इंडिया एक्ट और रूलज़ के प्राविज्ञन्ज लैप्स हो जायेंगे, इसलिए एसेंशल कामोडिटीज़ एक्ट जैसे परमिनेंट स्टेट्स में संशोधन करने के लिए यह आर्डिनंस जारी किया गया है।

इस देश की जनता को मालूम है कि कांग्रेस शासन ने चाइना का भूत खड़ा कर के इमर्जेन्सी को जारी रखा हुआ है और यह इमर्जेन्सी खत्म होने वाली नहीं है। यह आर्डिनंस पार्लियामेंट के सेशन से पंद्रह रोज़ पहले अर्थात् 5 नवम्बर को जारी किया गया। शासन डिफ़ेंस आफ़ इंडिया एक्ट और रूलज़ के अन्तर्गत आदेश जारी कर सकता था। इसलिए मैं समझता हूँ कि शासन ने आर्डिनंस को जारी करने के सम्बन्ध में इमर्जेन्सी को रिवोक होने का जो कारण बताया है, वह थोथा है।

डा० मा० श्री० अणे (नागपुर) : झूठा कारण।

श्री बड़े : शासन ने जो कारण बताया है, वह झूठा है। शासन के सदस्य समझते हैं कि केवल वही अन्न खाते हैं और दूसरे घास खाते होंगे। वे समझते हैं कि कोई दूसरा उन की नीति और कार्यवाहियों को नहीं समझता है। लेकिन मैं कहना चाहता हूँ कि सारी जनता समझती है कि जो कारण दिया गया है, वह ठीक नहीं है। जनता को मालूम है कि जब इमर्जेन्सी खत्म होने वाली नहीं है, तो फिर यह अध्यादेश जारी करने की क्या ज़रूरत थी।

इस के बाद शासन ने कहा है कि चूँकि बहुत से व्यापारी और डीलरज़ ब्लैक-मार्केटिंग और प्राफ़िटीरियरिंग करते हैं, इसलिए उन को सख्त से सख्त सज़ा देने के लिए यह अध्यादेश जारी किया गया है। शासन उन लोगों को अपराधी और एक्यूज्ड बना कर

डाक में खड़ा कर रहा है। लेकिन मैं समझता हूँ कि ट्रेजरी बैंचिज़ और शासन को एक्यूज्ड बना कर डाक में खड़ा करना पड़ेगा और उस से पूछना पड़ेगा कि क्या उस ने मुद्रा-स्फीति, इन्फ़्लेशन, नहीं किया है, क्या उस ने रांग प्लानिंग नहीं किया है और क्या वह अनाज की प्राइव्केशन को बढ़ाने में असफल नहीं हुआ है।

शासन ने कहा था कि हम तृतीय पंच-वर्षीय योजना में हर साल 6 परसेंट ग्रन्थ के उत्पादन को वृद्धि करेंगे, लेकिन पहले वर्ष 6 परसेंट के बजाये 1.2 परसेंट वृद्धि हुई, दूसरे वर्ष में 3 परसेंट डिक्लीज हुआ और तीसरे साल फिर 3 परसेंट की वृद्धि हुई। मैं पूछना चाहता हूँ कि शासन का बफर-स्टॉक कहाँ चला गया। यह गुनाह उमने किया है। जैसे वारेन हैस्टिंग्ज़ का इम्पीचमेंट किया गया था, वैसे ही इस शासन को भी इम्पीच किया जायेगा। इस देश में स्टार्वेशन से जो पाप और हत्याएँ हुई हैं, उनकी जिम्मेदारी शासन पर है। यह चार्ज लगा कर पूरे के पूरे ट्रेजरी बैंचिज़ की ट्रायल करने की ज़रूरत है।

एक माननीय सदस्य : सम्मरी ट्रायल।

श्री बड़े : शासन को आगे चल कर इस बारे में जनता के सामने जवाब देना पड़ेगा। उसकी नीति के कारण केरल में एक भयंकर प्रकरण हो गया। हमारे मध्य प्रदेश में तो सरप्लस स्टेट होने की वजह से उतना झगड़ा नहीं हुआ, जितना कि बाकी जगह हुआ है, लेकिन वहाँ भी शक्कर की क्या स्थिति है? हम को शक्कर नहीं मिलती है। हमारे यहाँ से चावल और गेहूँ बाहर चला जाता है। भ्रष्टाचारी पुलिस अधिकारी पांच पांच सौ रुपये एक ट्रक के लेकर गेहूँ को बाहर जाने देते हैं। चूँकि महाराष्ट्र में गेहूँ महंगा है और हमारे यहाँ सस्ता है, इसलिए पुलिस-अधिकारी एक ट्रक के पांच सौ रुपये लेकर

गेहूँ महाराष्ट्र में भेजने देते थे। जब हमने इस बारे में वायर किया, लोगों ने वायर किया, तो उनको ट्रांसफर कर दिया गया।

हमारे यहां व्यापारियों के 142 केसिज पकड़े गये। जोन्ज के बीच में पांच मील के बार्डर-बैल्ट में मूवमेंट आफ् ग्रेन्ज मना है, यह बात किसी को मालूम नहीं थी, क्योंकि इसको केवल सेंट्रल गवर्नमेंट के गजट में प्रकाशित किया गया था। यह आदेश सेंट्रल गवर्नमेंट के गजट में 23 मार्च को प्रकाशित किया गया और हमारी स्टेट के गजट में उसके तीन चार महीने के बाद प्रकाशित किया गया। सेंट्रल गवर्नमेंट का केवल एक गजट भोपाल में जाता है। जब मैंने मध्य प्रदेश के नई दुनिया में इस विषय में स्टेटमेंट निकाला कि मध्य प्रदेश के गजट में यह आदेश प्रकाशित नहीं किया गया है, जिसके कारण व्यापारियों के—उन व्यापारियों के जो कि इज्जतदार हैं, जिनके लिये हथकड़ी पड़ना मृत्यु के समान है—142 केसिज पकड़े गए। मेरे उस स्टेटमेंट के बाद उस आदेश को मध्य प्रदेश के गजट में निकाला गया।

मिनिस्टर आफ् फूड एंड एग्रीकल्चर की तरफ से आज टेबल पर कुछ रेगुलेशन और नोटिफिकेशन रखे गये, जो कि गजट में 27 नवम्बर को प्रकाशित हुए थे। इतने दिनों के बाद आज 8 दिसम्बर को उनको टेबल पर रखा गया है। इस तरह से यह शासन चल रहा है।

शासन व्यापारियों को दाय देता है, लेकिन व्यापारी ऐसा करते क्यों हैं? महंगाई क्यों हो गई है? इसलिये कि सप्लाय कम है और डिमांड ज्यादा है। और सप्लाय कम किसने की? उसकी जिम्मेदारी शासन पर है। ट्रैजरी बैचिज और कांग्रेस शासन ने सप्लाय कम की है। उन्होंने शुरू से रोंग प्लानिंग किया है। शासन ने कहा था कि हम तृतीय पंच पंचवर्षीय योजना में एग्रीकल्चरल प्रोडक्शन में 30 परसेंट और

इंडस्ट्रियल प्रोडक्शन में 70 प्रतिशत बढ़ाने वाले हैं। और प्रोडक्शन कितनी बढ़ी है? यह गाड़ी पीछे ही जा रही है, आगे नहीं जा रही है। इसकी वजह से इन्फ्लेशन हुआ। यह शासन डेफिसिट बजटिंग करता है। यह गुनाह किसने किया? शासन ने किया।

उसके बाद शासन ने नोट छापे—पचास परसेंट ज्यादा, हर साल तीन करोड़ के नोट छाप दिये गये। किसी ठेकेदार को सरकार ने पैसे देने थे। चूंकि सरकार के पास पैसे नहीं थे, इसलिए उसने नासिक से नये नोट निकाल कर उसको दे दिये उस ठेकेदार ने उन पांच लाख रुपयों से डाल्डा खरीद लिया और डाल्डा का रेट आठ आने बढ़ा दिया। सरकार ने लोगों को ज्यादा पैसे दे दिये हैं, उनकी परचेजिंग पावर बढ़ा दी है, लेकिन उसने उतने कन्ज्यूमर गुड्ज मुहैया नहीं किये हैं और एग्रीकल्चर-प्रोड्यूस नहीं बढ़ाया है, जिसके कारण ये कठिनाइयां सामने आ रही हैं। फिर भी शासन कहता है कि व्यापारी जवाबदार हैं। वे व्यापारी जरूर जवाबदार हैं, जो ज्यादा मुनाफ़ा लेते हैं और लोगों को भूखा मारते हैं।

लेकिन आज व्यापारियों के पास अनाज नहीं है, क्योंकि उन्होंने डर के मारे अनाज बेच दिया है या बाहर भेज दिया है। उन्होंने बाहर बोर्ड लगा दिया है कि आज से हम अनाज का व्यापार नहीं करेंगे। हमारे यहां क्लेबटर साहब कहते हैं कि तुम हमको थ्रॉट कर रहे हो, इसलिये हम व्यापार करेंगे। व्यापारियों को मालूम है कि शासन के पास पैसा नहीं है शासन फूड ट्रेडिंग पर 100 करोड़ रुपये खर्च कर रहा है, जब कि उसमें इन्वैस्टमेंट 2600 करोड़ रुपये की चाहिए।

इस विधेयक में यह व्यवस्था की जा रही है कि व्यापारियों की सम्मरी ट्रायल होगी और उनको अपील की इजाजत नहीं होगी। शासन उनके लिये अपील का दरवाजा क्यों बन्द कर रहा है? शासन उनके प्रति

[श्री बड़े]

विन्डिक्टव है और उनसे रिर्वेज लेना चाहता है । अपील का अधिकार न देने का कारण यह है कि शासन की कान्शन्स क्लीयर नहीं है और वह समझता है कि जिस सजा की वह व्यवस्था कर रहा है, वह ठीक नहीं है । इसका परिणाम यह होगा कि मैजिस्ट्रेट हमेशा शाट-कट कर के सम्मरी ट्रायल करेगा । सम्मरी ट्रायल में एविडेंस नहीं लिया जाता है, बल्कि केवल उसके एक्स्ट्रेक्ट लिखे जाते हैं ।

इस वक्त क्रिमिनल प्रोसीड्यर कोड में यह प्राविजन है कि तीन महीने की सजा के लिए सम्मरी ट्रायल रखी गई है । लेकिन इस विधेयक में एक साल की सजा होंगे हुए भी सम्मरी ट्रायल रखी गई है । इसी प्रकार इस समय यह प्राविजन है कि 2000 रुपये जुर्माना और एक महीने की कैद होने पर अपील की इजाजत है, लेकिन इस अमेंडमेंट के अनुसार 2000 रुपये जुर्माना और एक महीने की कैद के लिये अपील की इजाजत नहीं रखी गई है ।

यह सरकार डेमोक्रेसी के अनुसार चलना चाहती है और रूल आफ ला रखना चाहती है । वह ला एण्ड आर्डर कायम करना चाहती है । पहले "ला" आता है और "आर्डर" बाद में आता है ।

पहले ला आप ठीक करो । इस ला में तो आप ने सम्मरी ट्रायल करके एक महीने की सजा देने की बात रख दी है लेकिन उसके बाद अपील की बात आप ने नहीं रखी है, ऐसा क्यों किया गया है ? क्यों आप ने अपील का दरवाजा बन्द किया है ? आज तक कभी भी नहीं देखा गया है कि इस तरह से अपील का दरवाजा बन्द कर दिया गया हो ।

आप ने कहा है कि इस काम के लिए स्पेशल मैजिस्ट्रेट नियुक्त होंगे । वही स्पेशल मैजिस्ट्रेट्स इन केसिस का ट्रायल करेंगे । आप ने यह नहीं कहा है कि वही स्पेशल मैजिस्ट्रेट नियुक्त होंगे जिन को दस साल का अनुभव होगा । वही लोग इन केसिस का

ट्रायल करेंगे । लेकिन मैजिस्ट्रेट्स आज किस स्तर के हैं, इसको भी क्या आप ने देखा है । आजकल मैजिस्ट्रेट्स उनको नियुक्त किया जाता है जोकि किसी बड़े आदमी के रिश्तेदार होते हैं, जो काफी पैसे वाले होते हैं । मैं नहीं कहता हूँ कि मभी इस तरह के होते हैं । लेकिन बहुत से इस तरह के होते हैं । बहुत से नये आदमी भी हो सकते हैं और उनको ही आप स्पेशल मैजिस्ट्रेट नियुक्त करके एक एक साल की सजा देने या एक एक महीने की सजा देने का अधिकार दे सकते हैं । कम से कम ऐसा स्पेशल मैजिस्ट्रेट नियुक्त करने का प्राविजन तो आप इस में रखें जिन को कम से कम दस साल का अनुभव हो ।

मैं तीस माल से देखता आ रहा हूँ कि सम्मरी ट्रायल में लोगों को इंसाफ नहीं मिलता है । सम्मरी ट्रायल में जो मैजिस्ट्रेट होता है वह एग्जेक्टिव के कहे मुताबिक काम कर देता है, जो एग्जेक्टिव की तरफ से कहा जाता है, वैसे ही वह कर देता है । मामले को जल्दी समाप्त करने के लिए, शाटकट करने के लिए वह कह देता है कि तुम अपराध स्वीकार कर लो, गुनाह स्वीकार कर लो और पंद्रह दिन की सजा ही तुम को दे दी जायेगी । एक आदमी का किस्सा मुझे मालूम है । वह गांव का आदमी था । उसने चूक उसको हथकड़ी ही पड़ी थी, आत्म-हत्या कर ली । उसने सोचा कि मेरा सारा व्यापार मारा गया है, मेरी बहुत बेइज्जती हो गई है, इस वास्ते उसने आत्म-हत्या ही कर ली । आप देखिये कि हथकड़ी तक से लोग कितना डरते हैं ।

माइनर आफेंसिस के लिए आपने समरी ट्रायल रखे हैं । माइनर आफेंसिस में टेक्नीकल आफेंसिस भी आ जाते हैं, किसी ने सूची नहीं लटकाई, यह भी उस में आ जात है और यह भी एसेंशियल कमोडिटीज एक्ट में दण्डनीय अपराध है । किसी ने अगर स्टेटमेंट नहीं भेजी, रिटर्न नहीं भेजी तो वह

भी इस में आ जाता है। इस तरह के और भी बहुत छोटे मोटे अपराध इस में आ जाते हैं। इस वास्ते यह जो कानून आप बनाने जा रहे हैं इसके बारे में बहुत सोच विचार की आवश्यकता थी। आप पर प्रेशर पड़ा और आपने यह कानून बना दिया, यह तो ठीक नहीं है। प्रधान मंत्री जी ने कह दिया कि कानून सख्त होना चाहिये, इस वास्ते आप ने अध्यादेश जारी कर दिया है, यह तो ठीक नहीं है। भूखा जो पेट होता है वह अध्यादेश से नहीं भरा करता है। भूखा आदमी इससे सैटिसफाई नहीं हो सकता है। इससे तो डेमोक्रेसी ही खत्म हो जायेगी, लोगों को जो मूल अधिकार आप ने दे रखे हैं, वे ही खत्म हो जायेंगे। कांग्रेस को लोग गालियां देंगे कि किस प्रकार का कानून इसने बना दिया है। अभी तो व्यापारी वर्ग आपकी तरफ है लेकिन

श्री शिक्करे (मरमाग्रा) : आप क्या कांग्रेस को सुदढ़ करना चाहते हैं ?

श्री बड़े : माम, दाम, दण्ड, भेद इस में से कौन सी बात हो, इसको आप को साफ कहना चाहिये। केवल दण्ड ही लोगों को इस तरह से नहीं दे देना चाहिये।

आप ने कहा है कि लोगों के साथ अन्याय नहीं होगा। लेकिन इसमें तो साफ नजर आता है कि लोगों के साथ न्याय कभी भी नहीं हो सकेगा। रूल आफ ला क्या कहता है ? जूरिसप्रुडेंस क्या कहता है, इसको आप को देखना चाहिये। कहीं से भी अपील के प्राविजन को निकाला नहीं गया है। कनविकशन जब होता है तो अपराधी को अपील करने का हमेशा हक रहता है। लेकिन यहां पर तो कनविकशन होने के बाद भी कोई अपील नहीं हो सकेगी। अपील के दरवाजे आप ने बन्द कर दिये हैं। समझ में नहीं आता है कि आप ने ऐसा क्यों किया है। यह पहली बार आप करने जा रहे हैं। अपने भाषण में आप ने इसके बारे में कोई संकेत नहीं किया है कि ऐसा क्यों आप करना

चाहते हैं। इस बारे में आप को कम से कम इस साइड में बैठे हुए आनरेबल मॅम्बरज को तो सैटिसफाई करना चाहिये था। हम बिल्कुल भी सैटिसफाई नहीं हुए हैं। डिटरेंट पनिशमेंट आप दें लेकिन रूल आफ ला और जूरिसप्रुडेंस का ध्यान तो आप रखें।

आज हम जिधर भी देखते हैं उधर भ्रष्टाचार फैला हुआ पाते हैं। एक सिरे से दूसरे सिरे तक शासन में भ्रष्टाचार व्याप्त है। पुलिस वाले भी पैसे खाते हैं। अंधेर नगरी चौपट राजा, टके सेर भाजी टके सेर खाजा वाली बात आज चरितार्थ हो गई है। एक कथा कह कर मैं अपनी बात समाप्त कर दूंगा। एक वार एक व्यापारी का पुत्र दीवार के नीचे दब कर मर गया। वह राजा के पास गया और कहा कि मेरा पुत्र दीवार के नीचे दब कर मर गया है, इस वास्ते मकान वाले को फांसी की सजा होनी चाहिये। मकान वाले को राजा ने बुलवा भेजा। वह आया और उसने कहा कि मैं क्या करूं, यह तो दीवार बनाने वाले का कर्म है, उसका गुनाह है। मैंने उसको दीवार बनाने के पैसे दे दिये थे और अब अगर दीवार गिर गई तो इस में मेरा क्या अपराध है। राजा ने उस राज को बुलाया जिस ने दीवार बनाई थी। उसने कहा कि मैं क्या करूं जिस ने ईंट दीवार में चुनने के लिए दी थी, व ही खराब थी। इस पर राजा ने कुम्हार को बुलाया। उसने कहा कि पानी बाने ने पाती ज्यादा डाल दिया होगा या लकड़ी खराब होगी। राजा ने लकड़हारे को बुलाया। महंगाई का जमाना था, वह बेचारा गरीब आदमी था, दुबला पतला आदमी था और उसको फांसी दे देने का हुक्म दे दिया गया। उसके गले में जब फांसी का फंदा डाला गया तो वह ढीला रह गया। इस पर राजा ने कहा कि जिस के गले में यह फंदा फिट आ जाये, उसको पकड़ कर ले आओ। हुक्म पाते ही सिपाही गये और एक लट्ठा पांडे को जो

बहुत मोटा ताजा था पकड़ लाये और उसको फांसी दे दी गई ।

श्री ज्वा० प्र० ज्योतिषी (सागर) : क्या किसी साधू को फांसी दी जा रही है यहां ?

श्री बड़े : आप और मैं दोनों मध्य प्रदेश के हैं । हम दोनों को खाने पीने को मिल जाता है । हम अच्छे हैं ।

इस वास्ते मैं कहना चाहता हूँ कि इस तरह से लोगों को डिटरेंट पनिशमेंट नहीं मिलनी चाहिये । जो इन्फ्लेन्ट आदमी है, वे भी इस में मारे जायेंगे । आप के इस प्रयत्न की मैं घोर निन्दा करता हूँ । अपील का प्राविज्ञान नहीं निकाला जाना चाहिये । मेरी, जो गुनाह करता है उसके साथ कोई सहानुभूति नहीं है । उसको सजा मिलनी चाहिये । लेकिन यह तरीका किसी को सजा देने का नहीं है । मैं इस कानून के खिलाफ हूँ ।

आप हिन्दी नहीं जानते हैं, इस वास्ते मैंने थोड़ा सा अंग्रेजी में लिख कर रखा है जो मैं आप को सुनाना चाहता हूँ ।

Charges will be levelled against you in the court: you of the Treasury Benches have caused the death of so many persons by inflation, by deficit financing, by wrong planning, by nepotism, by corruption and, therefore, you are liable for punishment.

इस प्रकार का उस में चार्ज होगा जो कानून आप बनाने जा रहे हैं ।

Shri N. Dandeker (Gonda): Mr. Deputy-Speaker, I rise to support the motion about the Ordinance that has been moved by Shri Bade, and in the course of my speech to oppose also the Bill which embodies this Ordinance. This Ordinance and the Bill are

another milestone in the progress of our country down the slippery slope of unprincipled legislation, which has become the fashion of this particular year, 1964;—legislation which throws to the winds all accepted principles of jurisprudence, legislation which violates the basic principles underlying the fundamental rights and fetter the discretion of the judiciary. The principal characteristics of much of the legislation of 1964, in more specific terms have been to enact extraordinary unjudicial presumptions as a matter of evidence in the trial of cases; in a certain Bill that was adopted here, to convert evidence itself into an offence; and in another Bill, to impose mandatory sentence of imprisonment or fine or both. I have here with me a list of such enactments, but as most of these were passed only in the last session or in the current session, I do not think I need read out the list.

But the present Ordinance and the Bill go further. They provide mandatorily for a summary trials in all cases indifferently—both for offences of utmost gravity as well as for petty or merely technical offences. They intend to take away the right of appeal in cases of this kind by the simple device of imposing punishment up to only a certain amount fine or up to only a certain term of imprisonment. I say they are doing this deliberately, because I have no doubt that executive instructions will be issued to magistrates that it would be fine if the restricted in most of the cases fines and imprisonment up to that particular level which will disentitle the convicted person of his right to go up in appeal. Worst of all, this particular measure also provides for retrospective effect being given to legislation of this kind. The Minister, when he was referring to clause 2, namely, new section 12A and clause 3, or new section 8A, slurred over the matter. But the fact is that these two new sections are also concerned with enacting the provision that this extra-ordinary legislation

will have retrospective effect in regard to, I imagine, quite a number of cases that would still be pending when this Bill is enacted and in regard to which the taking of evidence has not yet commenced.

15 hrs.

Talking in another connection in this House I made the observation that just as the principles underlying fundamental rights grow from precedent to precedent, be also the erosion of fundamental rights proceeds from precedent to precedent. There have been, as I said, a number of legislative measures of this type already undertaken and we are now slowly getting accustomed to legislation of that type and of the type now before us, of which the underlying principle is a steady erosion of some of the basic principles of jurisprudence and some of the essential principles underlying fundamental rights and various other matters of the kind to which I have already referred.

In particular, this particular Bill. I submit, endangers the right of the citizen to practise legitimate professions by treating or threatening to treat with dire consequences even petty or technical offences committed by traders. I have just now been shown a letter received by Professor Ranga and I have also received several other letters where this vast majority of small traders, honest men, working hard for a living, complain that they are now threatened with punishments of a kind against which they cannot appeal and are seriously thinking of . . .

श्री नवल प्रभाकर (दिल्ली) करोल
बाग : हिन्दी ट्रान्सलेशन नहीं आ रहा है ।

Mr. Deputy-Speaker: Let us see what the matter is.

Shri N. Dandekar: As I said, small traders, most of them earning an honest living, conducting their trade to the best of their ability in a jungle

of regulatory laws and regulations which even most of us would find it difficult to understand, are threatened with dire consequences and, in particular, with consequences to a man's reputation such that if he was punished with these little things in a summary way by a summary trial the man is ruined for ever;—these men are seriously considering giving up altogether their avocations, their trades and professions which they have been following perhaps for generations. They have gone further to say,—and I would not mind saying so;—that this sort of legislation is becoming obviously, a method by which the Congress Party can now enforce slavish obligations to a particular party by a particular group of people, namely, those engaged in trade and commerce. They are frightened,—I do not want to put it higher than that,—of supporting any other party anywhere in any arrangement or meeting or discussion, because they feel sure that the hand of vengeance will descend upon them when this measure is enacted into law.

Then, there is this question of the rule of law. My hon. friend, Shri Bade, has developed that theme considerably and I would not like to add to the argument except to say that I regard, as being among the fundamentals of the rule of law, two essential points. Firstly, that I should have a fair trial and should not be sentenced to even one rupee fine or one day's imprisonment without a fair trial. In the case of petty offences we have got accustomed to it. There are provisions already in the Criminal Procedure Code for summary trials for such offences; well and good. That is something which society has got accustomed to. But it is quite another thing to keep on adding to that list a number of other offences which may make me liable to punishment with imprisonment for one year and fine exceeding Rs. 2,000 and so on. That I should be tried summarily for offence of that character, with non-appealable sentences, as if I was

[Shri N. Dandekar]

already guilty when charged is absurd. I know, many hon. Members get angry with the kind of reasoning that I here submit. They are already saying, "Shri Dandekar wants the guilty persons to go unpunished".

An Hon. Member: You do.

Shri N. Dandekar: No, Sir; I am only submitting that when people are accused of an offence they are not necessarily guilty of it. I am still old-fashioned and I take delight in being old-fashioned in this respect. I take pride in having this in my blood, as a part of my upbringing, that the man accused of an offence is not necessarily guilty until he is proved to be guilty. The fundamental basis of the rule of law is the right to a fair trial in this respect. Shri Bade has indicated the sort of thing that goes on in summary trials. My experience of summary trials is of some years back, but the same thing goes on now and probably worse than used to go on in summary trials when I was in the district service.

The second point of a fundamental character in regard to the rule of law is the right to appeal, the right to correct mistakes that magistrates may have made; the right to establish one's innocence, the right to point out cooked-up evidence. The number of cases in which evidence is cooked-up and in which witnesses are deliberately perjuring is unfortunately increasing in the country; that is a fact. But that being the case, that a man can be put away for a period of one month or can be relieved of a couple of thousands of rupees by way of fine, and that he should then have no means of vindicating his honour or to seek a remedy to establish his innocence, seems to me completely wrong because it goes to the very root of this principle of the rule of law.

Finally, and as a direct consequence of the absence of appeal, one renders meaningless the provisions in the

Constitution about the right of personal liberty, and the remedy of *habeas corpus*. If I can be put in jail for one month without any appeal, obviously any concept about *habeas corpus* becomes nonsense.

While saying this I am reminded of the rather interesting discussion that took place in the House yesterday, in the course of the debate on the Indian Trade Unions (Amendment) Bill, where my hon. communist friends over here were at considerable pains, quite rightly, to defend the fundamental rights of even a person who had already been convicted of an offence involving moral turpitude. They went on to ask why that man should be deprived of his rights, even though he may have admittedly been guilty and convicted. I think they chose the wrong type of case for discussion, but the principle they were trying to defend, namely, that even a convicted person has some fundamental rights, was a sound one. I intended in fact to intervene in that sense in the debate yesterday but it was too late and my name could not be included. I wanted to intervene to say that I support the proposition that there is no reason to deny fundamental rights to a man, who has been convicted, who has been jailed, has served his sentence and has finished with it, because he still continues to be a citizen.

Here, I am urging that a man merely accused of a crime but not yet found guilty is even more entitled to fundamental rights.

Coming now to some of the provisions of the Ordinance and the Bill, I regret to have to say that both in the statement issued in connection with the Ordinance as well as in the statement of objects and reasons appended to the Bill, there is a good deal of *suppressio veri* and *suggestio falsi*. My hon. friend Mr. Bade has already referred to one of them, namely, to the reasons given for promulgating the Ordinance, as if it had become so

tremendously urgent, as if the Defence of India Act, the Proclamation of Emergency and the Defence of India Rules were about to expire on the following day. The reason given was that the Proclamation of Emergency and the consequent Defence of India Act and Rules were temporary; they were due to expire. Nobody mentioned the thing that Parliament was due to meet in a fortnight's time. But because of the temporary deviation of the D.I. Act and Rules it became urgently necessary, very urgently necessary, to exercise the extraordinary rights and powers under the Constitution, between two parliamentary sessions to issue an Ordinance. I suggest that it was a deliberate case of *suggestio falsi*, if not worse.

Then, in the statement concerning the Ordinance,—I have it before me,—it only refers to the provision in the Ordinance for summary trials. If one were only to read this, one would say, "Well, I suppose that is all right". But there is another *suppressio veri* here, for that statement says nothing about "no right of appeal" in certain cases. Why did they suppress this? Why did they not state clearly in this solemn statement to explain the Ordinance that two things were being done, namely, summary trial and no appeal?

Going on to this Bill itself, I had a look at the objects and reasons of the Bill. That is obviously the place to begin with, when you are reading a Bill, What has the Government got in mind, why are they doing this thing, what is it that they intend to do? I see nothing in this, not one line, to say that this Bill was intended to be retrospective in its application.

One more point, though of this I am not quite sure and am open to correction. As I see it, the idea of this Ordinance as well as of the Bill is that it is only the breach of certain orders, which will be notified as special orders, that will be subject to a particular mode of trial, conviction and denial of

appeal. But I am told,—I see such a mass of rules and regulations and notifications about this,—that in fact all the notifications previously issued under that particular section of the Essential Commodities Act relating to foodstuffs, edible oils and oilseeds, have already been notified as special notifications under the Ordinance and all of them now under it. But if one read the Bill, one would be led to think that from time to time, particular notifications under the relevant section of the Essential Commodities Act would, after careful consideration, be picked out and notified as special notification for this particular purpose. But I am told,—I am open to correction,—that all the notifications concerned with foodstuffs, edible oils and oilseeds have already been so notified in which case again there is a concealment of a very material fact in putting this matter forward.

Shri Bade: They will come under 12A.

Shri N. Dandeker: Yes.

Now, Sir, coming to some of the provisions of the Bill in a little more detail as also of the Ordinance, I ask: What is the definition of foodstuffs? The moment a proposition about summary trials, the moment a proposition about minimum sentences, the moment a proposition about absence of appeal,—the moment all these new things start coming up, one has got to look closely at the contents of the offences that are being dealt with, the nature of things in relation to offences that are being talked about and to be dealt with in this manner. Otherwise, one takes for granted that Government is going on in a fairly reasonable way.

Shri Bade: They are losing the confidence of the judiciary.

Shri N. Dandeker: I am coming to that. When they come to vicious legislation of this kind, one has got to inquire what is this thing in law called "foodstuffs". What is in fact, also the definition, if there is one,

[Shri N. Dandekar]

about hoarding, speculating and profiteering? One hon. gentleman here used those three words in a steady refrain, respectively hoarding, speculating and profiteering. I may as well call it H.S.P. and done with it. What is hoarding? What is speculating? What is profiteering? What, again, is the definition of 'dealer'? What happens to a producer or a cultivator who chooses to hold back his stock for a rise in price? When I was in the district service, and even later, one of the great problems in connection with the agricultural economy and in connection with the economic condition of the cultivator was that his holding capacity was very limited, so that he was forced very soon after the harvest to bring all his produce, except a little bit that he required for his consumption, to the market, sell it, pay his debts, rents and taxes and go back financially where he started. It was that kind of situation one always endeavoured to improve by various types of legislation relating to agricultural rents and indebtedness, cooperative societies, taccavi loans, all sorts of things, so that the staying power of the cultivator might improve.

Now, what will happen under this Bill to a cultivator who says, "Well, I am not selling now; I am going to hold back"? Does he become a dealer? He probably does, because in holding back his stocks because to be a farmer. Is it intended that he becomes a dealer, and if not, what is the definition of 'dealer'? When a man who grows food stuffs and holds it back from the market, for selling possibly, at a better price over the inter-harvest period, he is really acting as a trader. Is he called a trader? Is he a hoarder, speculator and profiteer? Is he liable to this sort of grim punishments and modes of trial?

Then, there is, of course, no distinction whatever between petty offences, technical offences and substantial offences. But these are fundamentals to an enactments where you

have got this kind of modes of trials, denial of appeals, and things of that kind.

Sir, I would like to take a few minutes more so that I can deal with the economic consequences of legislation of this type. I have already referred to the fear that is being installed by this Ordinance amongst a large number of honest,—I would like to stress that honest small traders who have got families to support and who have been trading for generations. Now, suddenly they are said to be becoming crooked or criminal. It is these gentlemen who are going to be squeezed out. The honest, hard-working, small trading community is going to be squeezed out, and they are numerous.

An Hon. Member: What about the big hoarders?

Shri N. Dandekar: I am concerned with the ordinary citizen of the country. Big traders can look after themselves. I am concerned with small men, small traders, who have been living by trading for generations.

Dr. M. S. Aney: Say honest people.

Shri N. Dandekar: You, Sir, honest people.

I believe, this Bill will also have a serious effect upon the free flow and movement of foodgrains from the cultivator through the wholesaler, through the middle trader, to the retailer down to the consumer. One would have thought that this kind of drastic legislation should have some foundation in terms of a crisis such as justifies a proclamation of emergency, such as justifies the belief that the nation's safety is in danger. But the fact is that the whole of this food situation today is not a matter of one month or two months, or of some traders in some months having boycotted or done something with the trading mechanism in this country. This situation is the consequence of the past 10 to 15 years of wrong planning and policies of the Government. The essential elements of those ill conceived plans and policies have been a preference for heavy engine-

ering and gigantic projects in the public sector, financing of all these ill-conceived projects and schemes, and also of enormous non-investment outlay by deficit financing and having recourse to special borrowings from the P.L. 480 counterpart funds, which is another brother of deficit financing. Then, there have been impractical land reform policies and measures inspired rather more by ideological considerations than by any practical necessity, and in total disregard of the practical consequences that might ensue. And worst of all perhaps, these zonal restrictions on the movement of foodgrains, restrictions on inter-District movements, restrictions between inter-State movements and restrictions upon zonal movements, so that we are back where we were to the old bad days of 1947 and earlier when there were numerous "Indian States"—our 580 Indian States—in India and everyone of them was a little zone, everyone of them had barriers, customs barriers, movement barriers, road barriers, railway barriers, requiring permits to surmount them and so on. It was one of our great endeavours to try and eliminate all these obstructions to trade. And this has been embodied in the Constitution that all obstructions to internal trade are unconstitutional except when imposed in the public interest. But I submit none of these present restrictions on inter-District trade, inter-State trade, inter-zonal trade, are restrictions that are justified by the Constitution. I believe they are totally contrary to the best public interest. And it is because of this utter, antediluvian confusion that has been created in the present internal trade situation, by the circumstances created by the Government to which I have just alluded; that the Government has found it necessary to look for scape-goats.

Mr. Bade made that point and I think it is pertinent. Over the last six months a state of exhibitionism on the part of Government has been rampant, by staying raids all over the country and by enacting legislations

that seems to indicate no confidence in the judiciary. When I was discussing these strange developments recently with an hon. Member, I asked, "Well, I am new to Parliament; but what is it that is happening here?" And he replied "Government have lost confidence in the judiciary". But I do not think that is the correct answer. In fact, they are increasingly afraid of the judiciary. If they do not pass laws to impose minimum sentences, they are afraid the judges would give lighter sentences. If they do not deny the right of appeal, they are afraid the people unlawfully accused will get away in appeal.

They have really lost confidence in the whole administrative machinery, in their modes of investigating and handling cases, in the justification, or lack of it, with which cases are submitted to the courts for consideration, and so on. Actually, their confidence in the administration of justice is so great that they are afraid of the judiciary and are, therefore, trying to short-circuit the judiciary. For these reasons sir, I beg to submit that this legislation is altogether unnecessary, uncivilised, savage and cruel.

Shri A. C. Guha (Barasat): This Bill has been necessitated by the promulgation of the Ordinance on 5th November, 1964. The reasons for the **promulgation of that ordinance** have been mentioned in the Statement of Objects and Reasons.

During the last few months, prices have shot up by about 40 per cent in the case of almost all food items. Not only have the prices gone up but food items have disappeared from the market. It has become a very difficult task for the common citizen to get his daily requirements from the market. For rice he has to stand in a queue for two hours; again for vegetable oil he has to stand in a queue for two hours, and for sugar again he has to stand in another queue for two hours and thus for every food item he has to stand in a queue for two to three hours.

[Shri A. C. Guha]

That is the position now prevailing in the country.

No doubt, there has been some shortfall in production. There may have been something wrong with the weather during the last two years but I do not think that all these short supplies and difficulties and high prices could be attributed entirely to the failure of the weather. The Government, if at all responsible for any of these things, have been responsible only in this sense that they had not taken drastic and effective measures much earlier, today a position has come where it is a question of the survival of the common man.

I was amused when I heard eloquent speeches being made from the other side in the name of the common man. There can be nothing worse for the common man than the present, situation. A man earning Rs. 200 or 300 has to spend daily about two to three or four hours simply for procuring in his food supplies—apart from the very high prices he has to pay for his food stuff. When that is the position, how can he have time for other enjoyments in life and other amenities for his family and himself? He cannot look after the education of his children; he cannot look after the medical treatment of the members of his family. He cannot look after any other household work, because he has to spend his time either in the office or in standing in a queue for securing the foodgrains or other necessities of life.

This situation has been created, if not entirely, at least to the extent of 90 per cent, by the dishonest traders. A distinction has been sought to be made out between honest and dishonest traders, between big traders and small traders. Sir, I am a small man, and I do not generally go to any big trader for purchasing my small necessities of life. But I find that even the small traders cannot supply the goods, or they do not supply the goods when I require them. It is not that

they do not possess those goods always. It is not that the prices that they charge are the fair prices that they are expected to charge. That is the position even with regard to the small traders. The sin or the dishonesty that was prevalent at the top of the commercial community appears to have permeated down to the lower level, because the small traders at the lower level will have to get their supplies from the big traders, and unless the small traders also adopt the business tactics of the big traders, they cannot get the supplies and they cannot get any profit for their living. So, perforce they have to adopt these tactics which the big traders have called Yojana, which read thus:

So far as the Ordinance is concerned, of course, there was complete justification for the issue of that ordinance. But I would like to know how the urgency of this ordinance was met in view of the fact that the hon. Minister has not stated in his opening speech what action has been taken by Government during the last one month after the promulgation of the ordinance to ease the situation. At least as far as I have been able to know about my own State N. Bengal and also Delhi, I do not think that any action has been taken under the ordinance. Powers are taken by Government, and the House is also eager to give powers to Government to tackle this anti-social and most vicious problem of the country, but if Government do not use their powers properly and effectively, then some portion of the blame must necessarily attach to Government.

Only a few days ago, I was reading a passage from a Government publication Yojana, which read thus:

"The Home Minister stated: 'From one plan to another, we know what to do in administration, but we do not do it. Ideas are not implemented. Some drill has to be prescribed right down

the line. There must be much more ruthlessness than is seen around."

This is an admission of failure by the Home Minister himself. Ideas are not implemented. Policies are enunciated, but somehow they are diluted and somewhere in the middle they are stopped and they are not implemented. If that be the position, the hon. Minister should seriously consider whether he should take all these powers. Personally I might agree that these powers should be vested in Government, but Government must use these powers drastically, ruthlessly and effectively. Unless they can do so, what is the use of their seeking these powers and thereby incurring some of these criticisms which have been showered upon us from the other side of the House?

Today, as I have stated, the whole nation has been held to ransom by a few traders. They can pass on to the consumers anything and at any price they like. There is a deliberate and organised defiance of the Govt orders and policies. We have heard just now about the rule of law and many other things. But what is the rule of law? Is it the rule of law that when I see a man throttling a child, I should not assault him and I should not attack him. Is it the rule of law that is prevailing in the commercial life of the country? Is it the rule of law which is prevailing in the industrial life of our country. Are we going to tolerate this situation in our country where there is no rule of law but only the rule of the jungle? The question of Fundamental Rights as also of natural rights and justice has been raised. The first Fundamental right and the first natural right of any individual or any community is the right to survive and to live. The question before us now is whether we as individuals or as a community will continue to live and survive or will be killed by these anti-social elements in the country. Foodstuffs are adulterated, and baby foods are kept in concealment and sold at exorbitantly high prices beyond the reach of ordinary man.

And yet we are hearing the plea in the name of the common man or the ordinary man that these drastic measures should not be taken. Food is being adulterated; baby food is being adulterated; medicine is adulterated and so on. If this be the situation, then what will be the future of the country? Some drastic measures will necessarily have to be adopted and also ruthlessly employed to check these things.

Only a few days back in Calcutta many searches were made in regard to baby food, and about one lakh tins of baby food were seized. And Government applied to the court for the seizure or forfeiture of those tins of baby food, but the court decreed otherwise. The court decreed that those tins should be handed over to the parties from whom they had been seized. I do not know what happened later on. I hope the hon. Minister will enlighten this House as to what has happened to the tins and bottles of baby food seized by the West Bengal Government.

In this connection, I hope that the House will realise that W. Bengal is in a very difficult position as regards food supply, as regards political agitation and many other things. But even then, the Bengal Government have somehow been managing the food situation somewhat better than was expected. But I am not sure whether the Central Government have been giving them all the help that was necessary. When the prices were to be fixed, I am told that the Central Government were not willing to allow the Bengal Government to fix the prices under the Essential Commodities Act. So, they had to take recourse to some local Act by which they could enforce the price fixation. I would like to know why the Central Government refused to allow the State Government to have the maximum prices fixed under the Essential Commodities Act.

Shri C. Subramaniam: In respect of what?

Shri A. C. Guha: Foodstuffs.

Shri C. Subramaniam: When did this happen?

Shri A. C. Guha: A few months back, then he was not the Minister for Food and Agriculture.

As regards forfeiture, I think the provision in the present Act is somewhat doubtful. It is left only to the discretion of the court. The court has to go by its own standards, which may not now be quite suitable for meeting the requirements of the situation. So this Bill should have taken some more authority on behalf of Government for forfeiture of property seized for contravention of the law.

Coming to summary trial, the provision here is that there shall be no appeal if the sentence does not exceed one month imprisonment or fine of Rs. 2,000. Here also Government should have wider powers. One month's imprisonment or Rs. 2,000 fine would not mean very much for them. They can well afford to pay the fine or undergo the imprisonment for the huge profits they are earning. They are sure that in jail they will have all the home comforts, as we have seen in the case of one industrialist in a Delhi jail, under the very nose and eyes of the Central Government.

So this provision should be enhanced to six months imprisonment and Rs. 10,000 fine. Otherwise, the Bill will not have the desired effect in the country.

Some Hon. Members: No.

Mr. Deputy-Speaker: I have rung the bell twice.

Shri A. C. Guha: I am concluding.

Shri Hari Vishnu Kamath (Hosangabad): He is estimating the time; he is Chairman of the Estimates Committee.

Shri A. C. Guha: There is already a threat that the supply line may be cut off or choked up. Government should be prepared to meet it. They should know that till now the supply line is in the hands of the private trade. Government should immediately take precautionary measures to see that the supply line is not cut and the channel of supply is not choked up anywhere. They should try to set up their own machinery immediately; if they cannot, they should take powers to requisition some of those establishments and units which have now been carrying on the distribution business.

With these words, I commend the Bill. I hope Government will use the provisions of the Bill ruthlessly and effectively—I use the word 'ruthless' quoting from the Home Minister's observation. I hope the administration will rise to the occasion, handle the situation competently and implement the policy of Government.

Shri S. S. More (Poona): I rise to support this measure with mixed feelings. But before doing so, let me deal with the criticism of Shri Dandekar. He said that this is a savage Bill. When Government is called upon to deal ruthlessly with savages, the Bill has to be savage. May I submit that for some months now the trading community has been acting like a tribe of savages. They are indulging in adulteration, they are profiteering and they are driving stocks underground. If all these evils are to be fought ruthlessly, then Government has no other way but to bring in a measure which will effectively punish them.

The Opposition are speaking with two voices. Uptil now, since the food trouble started, Government have been wooing and courting the trading community not to put any obstacles in the supply of foodstuff to the people—this was the charge levelled by the Opposition. Now, when Government, realising their mistake, are

trying to put on the statute book, this particular measure, the Opposition turn round and say that they are bringing in ruthless measures. Shri Dandeker spoke for the trading community which is responsible for this food debacle

It is very easy to say that Government are responsible for all this. I would rather point my accusing finger on the trading community. They are not only adulterating edible stuff with filth and poisonous substances; they are also driving the stocks underground. They are also defrauding the peasants with a view to profiteer. So if profiteering has to be squashed, such a ruthless measure is an absolute necessity.

If I can blame Government, it is in this way, that they have so far followed a policy of appeasement of the trading community for too long. Somehow or other, they have displayed the mentality of Chamberlain, every time appealing to the exploiters to behave. That should not happen. This Bill indicates that Government are discarding this policy of appeasement.

While I feel that the trading community should be properly dealt with, I would express my feelings that the small producers are likely to suffer. Government will issue an order or notification which will be published in the gazette. The smaller producers spread in all villages, in the nooks and corners, would not know about these orders or notifications. So unwittingly, they may commit some breach, which will be not a deliberate offence, but a technical one.

15.37 hrs.

[DR. SAROJINI MAHISHI *in the Chair*]

For a technical offence, there should be a lighter punishment.

My submission is that the punishment prescribed of one month in jail without appeal is not in consonance

with sec. 262 of the Criminal Procedure Code for summary trial. So the provision of one month should be changed to three months to bring it in conformity with the provisions of the Cr. P. C.

Shri Dandeker was very vehement in attacking this provision. The British introduced the provision for summary trial long ago. Why should he find fault with the present Government for resorting to summary trial and punishment thereon. The provision in the Cr. P.C. is:

"No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter".

The next section is:

"In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge...."

Dr. M. S. Aney: Shri Dandeker's point is: when there is already such a provision in the Criminal Procedure Code, what is the need for this measure?

Shri S. S. More: My submission is that the punishment of imprisonment ought to be raised to at least three months to make it appealable; as far as the fine of Rs. 2,000 is concerned, for the rich traders, this will not be difficult to pay.

As I said, precaution should be taken to protect the small producers.

Shri Ranga: They will come under the mischief of this Act.

Shri S. S. More: Suppose, tomorrow Government issue an order that no peasant shall leave his land fallow. The poor peasant may have no capital to till his land; he has no bullocks, not implements. Then he will come under the mischief of this Act. Therefore, if there is reasonable cause, it should be treated as a

[Shri S. S. More]

technical offence, and the small peasants should not be visited with all the rigorous punishments that are prescribed here.

Shri Bade: But there is no saving clause like that.

Shri S. S. More: That is what I propose, that Government should amend and provide for technical breaches.

Shri Yallamanda Reddy (Markapur): Though I would like to support the Bill, I want to bring to the notice of this House the bankrupt policies of this Government all these years in the matter of food.

We know that the country is now facing a serious situation regarding food articles. We hear in the House every day sad stories as to how people in various parts of the country have to stand for hours in queues to obtain one kilo of rice. Yesterday and today, we have heard how the Kerala people could not get even 3 oz. of rice after standing for so many hours in queues. This Government, knowing all these things, could have taken necessary steps to correct the food situation, but the Government always comes here after the position becomes very serious.

At the AICC meeting in Guntur, they passed a resolution stating that the food situation in the country was secure, but soon after that, there were clashes and a very serious situation developed in Kerala, and the hon. Minister admitted his mistake and his inability to help the Kerala people in time.

So, I would ask the Minister why he should not have brought a Bill like this long ago, instead of giving a chance to the Swatantra Party and the Jana Sangh now to oppose this measure in the name of jurisprudence and fundamental rights. They have no objection to the big traders and hoarders looting the people in broad day light; under the pretext of fun-

damental rights and jurisprudence, they can cheat the people, they can hoard grains, they can sell at any price more than that fixed by Government.

Shri Bade: We have said they should be hanged.

Shri Yallamanda Reddy: You say on the one hand they should be hanged, but at the same time when provisions are brought you will certainly oppose them under the pretext of fundamental rights and jurisprudence.

Shri Dandeker spoke for a long time with all vehemence. I followed his speech carefully. He has not a word of sympathy to say about the distress of the people who are suffering for lack of food, and he has no word against the traders who are doing all this blackmarketing in the country. He spoke at length about fundamental rights, about jurisprudence, about law and all these things, but he never spoke a word for the people, for food supplies to them. Therefore, I need not go very deep into it as far as they are concerned, because they are here to defend always free trade, which they call freedom and fundamental rights.

So far as this Government is concerned, they have passed so many Acts, but they are not seriously implementing them and their provisions. They proclaimed that everybody should declare the quantum of rice or paddy possessed by him. I know so many millers and landlords openly flouted the order of the Government, but the Government, with all their requests to these traders, could not do anything.

In Andhra Pradesh, the Minister of Agriculture was making statements in so many places saying that the millers were not surrendering their accounts. But when the trader openly flouts the order of the Government, when the millowner goes to the Minister and

says that he is not going to give the accounts, how does the Minister keep silent? I cannot understand this bankruptcy. It is shameful on the part of any Government or Minister that the law or order should be flouted in their very face.

And this Government is now coming up with an ordinance. This is more or less a bogus thing, I can say. I would like to ask the Minister how many cases were booked after the Ordinance was promulgated. I have a report that only one case in Delhi was booked. Therefore, just passing so many Acts and virtually doing nothing is the policy of the Government.

When the Millers' Association of Vijayawada and Guntur refused to submit their accounts, the Minister ran to them, dined with them, and made some compromise.

Shri Nath Pai (Rajapur): Any idea of the menu?

Shri Nambiar (Tirucherapalli): With the best rice available!

Shri Yallamanda Reddy: That is one of their ways. He said he wanted to have a compromise with the millers.

Therefore, I submit that once the Government passes such Acts, they must be serious enough, and they must punish the guilty and see that the provisions are properly implemented.

In the matter of fixing of prices, Government have given undue advantage to the millers. In Andhra Pradesh, recently a price of Rs. 404 per putti of 850 kilos has been fixed for the best variety of paddy, namely Molakkoluku. The Government says they have allowed two per cent to the wholesale dealer, but actually the price has been fixed in such a way that the wholesale dealer can get 7-1/2 per cent profit, and he can sell the rice in retail at 79 paise per kilo.

The previous year, the price of this was Rs. 320 per putti, but now Government have fixed it at Rs. 404. Therefore, the Government have fixed the rates very high, so that the trader will get abnormal profits. In spite of all these things, they are not coming out to sell what they have got.

They have formed so many associations. In Andhra Pradesh they have the wholesalers' association, and they dictate terms to the Government as to what the Minister or the Government should do regarding supplies and rates of rice to the wholesaler or retail dealers. Therefore, the Government is not seriously implementing the Acts and rules they propose here. Simply, they want to wash off their hands by moving a Bill and telling the people that they are very serious and very severe against the millowners. Their action virtually supports what the Swatantra Party and Jana Sangh say openly.

I find that the number of prosecutions launched under the Defence of India rules is 1,421, while convictions obtained are 761; number of prosecutions launched under the Essential Commodities Act is 3,302, while convictions obtained are 1,388. Under this ordinance providing for summary trials, they could book, it seems, only one case in Delhi.

We hear so many stories of raids in so many parts of the country, so many people being caught, and so much quantity of foodgrains being obtained, but sufficient number of prosecutions have not been launched, and sufficient care has not been taken to implement the Acts.

It is sad to hear the Minister expressing himself that he cannot do anything regarding the rise in prices in Delhi and other parts. If we read the Government of India Economic Bulletin, we find that the prices of food articles have been gradually rising. After all this agitation and so many speeches by all the Members of

[Shri Yallamanda Reddy]

the House and so many assurances given to the hon. House, we see the price of food articles is rising daily. I shall quote the figures. If we take the base year 1952-53 as 100, then on 17-10-1964 it was 168.7 on 24-10-1964 it was 165.4; it was 165.6 on 31-10-1964; 165.0 on 7-11-1964 and 166.2 on 14-11-1964. Since then the prices of food articles are gradually rising still further. What is the position of wheat? It stood at 131.2 on 24-10-1964; at 132.8 on 31-10-1964 at 132.6 on 7-11-1964 and 133.6 on 14-11-1964.

In this connection, I wish to say that the Chief Minister of Andhra Pradesh, Mr. Brahmananda Reddi, replying to the food debate in the Andhra Pradesh Assembly said; that he could not do anything because the merchants were very clever people and if any Act was passed, immediately they circumvented its provisions and adopted other means, and he expressed his inability to do anything.

Shrimati Lakshmikanthamma (Khammam): Madam Chairman, on a point of order, can we bring in the name of a person who is not here?

Shri Hari Vishnu Kamath: He is not blaming him, but only quoting him.

Mr. Chairman: I would request the hon. Member to conclude now

Shrimati Lakshmikanthamma: I was present in the Andhra Pradesh Assembly when the Chief Minister was replying to the debate. He never said those things. There is nothing wrong even if he said that the traders were clever people.

Mr. Chairman: I request the hon. lady Member to resume her seat. The information may not be correct but he is saying that he said so.

Shri Yallamanda Reddy: I am coming just now from the Parliament Library where I read Andhra Patrika.

I will request her to go there and read it and then she will learn the accuracy of my statement.

What I want to submit is this. If the Chief Minister of a so-called surplus State says like this and if the Central Food Minister says that he could not do anything about the price of wheat, I do not know for what purpose all these Bills are being introduced. Therefore, Government should come out with more stringent measures to compel the traders to supply food grains to all the people at fair prices to all those who are badly in need of it.

श्री तिहासन सिंह (गोरखपुर) : सभापति महोदय, खाद्य की समस्या सदन में अनेक बार वाद विवाद का विषय हो चुकी है और जब जब हम ने इस पर वाद विवाद किया और सरकार को कुछ सुझाव दिया कि अमुख अमुख कदम सरकार उठाये ताकि खाद्य समस्या हल हो उतना ही उत्तरोत्तर खाद्य की समस्या बिगड़ती गई। कल जान में या अनजान में हमारे खाद्य मंत्री ने राज्य सभा में किसी प्रश्न के उत्तर में कहा कि दिल्ली में गेहूँ के भाव को ले कर आज जो खाद्य समस्या उत्पन्न हो रही है उस के संबंध में मैं अपने को असहाय पाता हूँ। "हैल्पलेस" शब्द निकला है अखबारों में, हिन्दी में "असहाय" है। जब खाद्य मंत्री ही असहाय हैं तब किसी को क्या सहायता इस नियम के जरिये मिलेगी यह मेरी समझ में नहीं आता। हमारे विरोधी पक्ष की स्वतन्त्र पार्टी ने इसका विरोध किया है और कहा है कि यह बहुत सख्त है, यह बहुत विपम कानून लागू हो रहा है, इसे लागू नहीं होगा चाहिये। मैं चाहता हूँ कि इस से भी अधिक सख्ती के साथ, इस से भी तीव्रतर और घोरतर कठिन कानून बने, जिस से हम खाद्य समस्या को हल कर सकें। लेकिन अगर कानून से ही खाद्य समस्या हल हो सकती तो यह कभी की हल हो गई होती। मैं आज सरकार से

कहना चाहता हूँ कि हमारे यहां कानूनों की कमी नहीं। सन् 1955 में एंजल सप्लाई ऐक्ट, आवश्यक पदार्थ कानून, हम ने इस सदन में पास किया, और उस के द्वारा धारा 3 के अन्दर काफी अधिकार सरकार को मिल चुके हैं कि जब कभी वह देखे कि किसी आवश्यक खाद्य पदार्थ का भाव बाजार में अधिक बढ़ता जा रहा है तो वह उस पर रोक थाम करे। लेकिन इस पर कभी सरकार का ध्यान नहीं गया। यदि गया तो उस का फल क्या हुआ, यह जनता के सामने नहीं है। मैं सरकार का ध्यान दिलाना चाहता हूँ अपने भूतपूर्व खाद्य मंत्री श्री रफी अहमद किदवई की तरफ कि उन की चेतावनी में कितना जोर था, क्या ताकत थी, क्या सामर्थ्य थी और आज की सरकार के खाद्य मंत्री और जो हमारे वर्तमान प्रधान मंत्री हैं उन की चेतावनी में क्या ताकत है।

खाद्य के सम्बन्ध में अनेक चेतावनियों को देने के बाद अनेक बार हमारे खाद्य मंत्री ने और दो तीन बार हमारे प्रधान मंत्री ने भी कहा कि वह हमारे सम्भालने के बाहर हो रही है, हम सम्भाल नहीं सकते, और इस के लिए, सख्त से सख्त कदम उठाया जायगा। लेकिन पता नहीं कि हमारी उस चेतावनी में कितना कम दम था, या फिर जिस से उस का सम्बन्ध था वह समझते थे कि उस के अन्दर कोई दम नहीं है और उन्होंने उस की तरफ कोई ध्यान नहीं दिया। फल यह हुआ कि खाद्य समस्या बिगड़ी गई और खराबी बढ़ती गई। अन्त में कल हमारे खाद्य मंत्री महोदय को कहना पड़ा कि वे असहाय हैं। इस असहाय अवस्था में अगर सरकार उन्हें और अधिकार दे तो क्या यह बिल्कुल हास्यास्पद चीज नहीं होगी। यह एक हंसी की चीज हो रही है कि हम अतिशय देते हैं कि अगर मैजिस्ट्रेट किसी को एक महीने तक की सज़ा और 2 हजार ६० फाइन करे तो उस की अपील नहीं होगी। पहले एक महीने की सज़ा और फिर 50 ६० तक

का हक मैजिस्ट्रेट को था जिस के लिए अपील नहीं हो सकती थी। हम तो चाहते हैं कि इस से भी ज्यादा अधिकार दे दिये जायें। हम तो चाहते हैं कि ऐसे व्यक्तियों की सम्पत्ति जब्त होनी चाहिये ताकि देश सुगमतापूर्वक चल सके। लेकिन अधिकार देने से ही तो काम नहीं चलता। मुझे दुःख के साथ कहना पड़ता है कि सन् 1956 में इसी दफा 3 में हमारे तात्कालिक खाद्य मंत्री श्री जैन अमेंडमेंट लाये। उन्होंने कहा कि तीन महीने के अन्दर जो भाव बढ़ता है वह उस पर लागू होगा। लेकिन उस से भी कुछ नहीं हुआ। आज हम भाव को कंट्रोल करने के लिये जो भी करना चाहते हैं उस से हम कुछ कर नहीं पाते हैं। मैं इस सम्बन्ध में रफी साहब की थ्रोट को पढ़ना चाहता हूँ कि उन की थ्रट में कितनी ताकत थी। सन् 1953 में जो खाद्य समस्या थी उस को हल करने के लिये हम ने उस के आवागमन में कुछ ढील की। जब ढील की तो गेहूँ का भाव गिरा लेकिन चावल का भाव बढ़ा। जिस चावल का भाव उस समय बाजार में 14 ६० था वह 22 ६० हो गया। रफी साहब ने घुड़की दी कि अगर व्यापारी भाव कम नहीं करेंगे तो हम एसेन्शियल सप्लाई ऐक्ट की शरण लेंगे। उस को लागू करेंगे। यह उन की स्पीच थी। उन्होंने जैसे ही घमकी दी कि भाव 22 ६० से 17 ६० आ गया। वह ताकत आज हमारी सरकार के हाथ में नहीं है। मैं आप को जानकारी के लिये वह स्पीच पढ़ कर सुनाना चाहता हूँ।

“The wheat price went up from Rs. 16 a maund to Rs. 22 a maund and then the Chief Minister convened a meeting of the grain dealers and told them that the new foodgrain order that had been issued authorising Government to take over stocks at the procurement prices would be enforced if they did not bring down the price and the price did come down to Rs. 17-12.”

[श्री सिंहासन सिंह]

आज हालत यह है कि हमारे चीफ मिनिस्टर भी धमकी देते हैं और फूड मिनिस्टर भी धमकी देते हैं फिर भी कीमत बढ़ती जा रही है। मैं सरकार से अदब से कहना चाहता हूँ कि वह कम बोलें तो बहुत अच्छा हो, धमकियां न दें तो बहुत अच्छा हो, और कुछ काम करे।

16 hrs.

मैं बड़े अदब से कहना चाहता हूँ कि 13 या 15 नवम्बर को यह कानून लागू हुआ और इस पर हमारे प्रधान मंत्री जी ने कहा कि हमने अपने अधिकारियों को अधिकार दे दिया है और इस अधिकार से व खाद्य समस्या को हल कर सकते हैं, अब यह उन अधिकारियों पर है कि वे देखें कि यह खाद्य समस्या हल होती है। मैं गोरखपुर का रहने वाला हूँ। जिस दिन यह कानून लागू हुआ उसी दिन से बाजार से गेहूँ और चावल गायब हो गया। गोरखपुर में चावल की कमी नहीं है। मैंने कलेक्टर से पूछा कि यह क्या होगा, तो उन्होंने कहा कि स्टॉक नहीं है। कल तक ओपिन में चावल बिक रहा था लेकिन आज कानून लागू होता है तो जो घर में है वह भी गायब हो जाता है। और अब क्या हाल है। गोरखपुर में गेहूँ और चावल का भाव इससे पहले एक रुपये सेर था, अब वह आठ छटांक रह गया और वह बैंक डोर से बिक रहा है, बन्द नहीं है। इसका कारण क्या है? इसका कारण यह है कि आप जिन अधिकारियों के द्वारा कानून का पालन करवाना चाहते हैं व बहुत नीचे स्तर तक गिर चुके हैं, मुझे यह दुःख के साथ कहना पड़ता है, और इनका काया पलट किये बिना आप किसी भी कानून के जरिए खाद्य समस्या को हल नहीं कर सकते।

और फिर यही नहीं। जिस समय फूड मिनिस्टर साहब आए तो उन्होंने वक्तव्य दिया कि जोन्स को दूर करना चाहिए।

मैंने उसका स्वागत किया। उन्होंने दक्षिण में जोन को मलग किया लेकिन वह फिर से लागू हो गया। और अब तो जोन की बात नहीं है, अब तो एक जिले से दूसरे जिले में अनाज नहीं ले जाया जा सकता।

उत्तर प्रदेश के लिये हाल में जो खाद्य नियंत्रण आदेश निकले हैं, उनके अनुसार उत्तर प्रदेश को चावल के लिए 12 भागों में बांट दिया गया है। कहां तो सारे देश के एक होने की बात कही जाती है, कहां एक प्रान्त के एक हिस्से से दूसरे हिस्से को अलग बांटा जा रहा है।

मैं मध्य प्रदेश गया था। वहां के बड़े बड़े माननीय सदस्य मेरे सामने बैठे हैं। वहां एक गेहूँ होता है जिसका नाम है "दावत खानी"। उसका भाव 52 रुपए प्रति क्विंटल है।

एक माननीय सदस्य : एवेलेबिल नहीं है।

श्री सिंहासन सिंह : यह सरकारी भाव मुझे बताया गया। लेकिन वहां कहा गया कि यह गेहूँ एक जिले से दूसरे जिले में नहीं जाने पाता। यह बात रतलाम की है। मैंने कलेक्टर से पूछा, वह वहां मौजूद थे, उन्होंने कहा कि ऐसी बात नहीं है। और दूसरे किस्म का वहां गेहूँ होता है, उसका भाव 50 रुपए प्रति क्विंटल हो गया है। दिल्ली में गेहूँ सस्ता था, लेकिन अब वह 50 रुपये प्रति क्विंटल हो गया है। क्यों नहीं आवागमन खोल देते।

अभी वित्त मंत्रीजी कह गये कि देश में अन्न की कमी नहीं है और बाहर से अन्न आ रहा है और खाद्य मंत्री कहते हैं कि देश में अन्न की कमी है, किस की बात मानी जाए। वित्त मंत्री कहते हैं कि देश में अन्न की कमी नहीं है, वितरण व्यवस्था की कमी है। वह कहते हैं कि अन्न की कमी नहीं है,

से 50 लाख टन अन्न आ रहा है। लेकिन वितरण व्यवस्था की कमी है। इसका कारण जोन हैं।, जिनसे रूकावट पड़ रही है। इन जोन्स के बारे में आपने कहा कि मार्च में विचार करेंगे। मुझे लगता है कि इसी प्रकार आपका विचार चलता रहेगा और लोग भुखों मरते रहेंगे।

मैं अन्त में एक बात और कह देना चाहता हूँ। मैंने जनसंघ के अखबार "पांचजन्य" में पढ़ा है कि बिड़ला साहब ने कहा है कि इस सरकार को उखाड़ फेंकना चाहिए। मुझे यह पढ़ कर बड़ी खुशी हुई। अगर उनके दिल में यह बात आ जाए तब तो देश का कल्याण हो जाए। उन्हीं के लिए तो हम बदनाम हैं और कहा जाता है कि यह सरकार पूंजीपतियों के लिए काम करती है। अखबार की इस खबर को मंत्री महोदय देख लें। अगर बिड़ला कांग्रेस सरकार के खिलाफ हो जाए तो इससे बढ़ कर देश के लिए कल्याण की कोई और चीज नहीं हो सकती। अगर यह बात सच है तो वह अपनी बात पर कायम रहें तो सरकार को चेतना होगा। हम उन्हीं के पीछे बदनाम हैं और कहा जाता है कि इन्हीं के पीछे सब कुछ हो रहा है।

अन्त में मैं फिर कहना चाहता हूँ कि आप बोलें कम, काम ज्यादा करें, कदम उठाएं, कानून पर सख्ती से अमल करें, कानूनों की कमी नहीं है, अमल की कमी है। यह जो कानून आया तो लोगों को बड़ी खुशी हुई और आशा बंधी, लेकिन वह आशा तब निराशा में बदलती जा रही है। हमें उम्मीद है कि आगे आप सख्ती से कानून पर अमल करेंगे, आपके पीछे पार्लियामेंट है, आप के पीछे सारा देश है, बनिया महाजन आपको तंग नहीं कर सकता।

Shri A. S. Alva (Mangalore): Madam Chairman, I fully agree with Shri Dandeker that this *Essential Commodities (Amendment) Bill* is in-

tended to hit certain sections of the community but still I support the Bill because it is against these black-marketeers, hoarders and those who are trading in human misery that this Bill is directed against. Surely, nobody will hold any brief on their behalf. As a matter of fact even Shri Bade, who first moved his resolution, himself gave a very sorry picture of the food situation in the country, and still, he does not want to punish those people who are indulging in anti-social activities.

Shri Bade: I only wanted that the trader should have the right of appeal. That is all.

Shri Shinkre: He is afraid that the Government will catch the small fry.

Mr. Chairman: Order, order. Shri Bade has had enough time for his speech.

Shri A. S. Alva: As far as the present law is concerned, there is a provision in the Criminal Procedure Code to empower the magistrates to hold summary trials. Under sections 260 to 265 of the Criminal Procedure Code, a magistrate could also inflict a punishment of three months and also a fine. But in the case of imprisonment or a fine of more than Rs. 200, under section 414 of the Criminal Procedure Code, an appeal is provided. Here, what they have done is, in respect of a punishment exceeding one month or a fine exceeding Rs. 2,000 alone, the appeal is made valid or competent. The amendment that Shri Dandeker proposes is this: he wants that there should be an appeal to the high court. About that, there is absolutely no difficulty as the law stands at present, because, under sections 435 to 439 of the Criminal Procedure Code, anybody could move the high court, and the high court, under section 439, has got ample powers, under sections 423, 426, 427 and 428, to quash any conviction or reduce any

[Shri A. S. Alva]

sentence and even suspend the sentence. So, there is absolutely no difficulty for any person going to the high court and pleading that the magistrate has committed an illegality or an error and as such there is ample scope for scrutiny, and no body need be frightened about that.

If a summary trial does not take place, the trouble will be that the enquiries or other trials will be delayed. The main object of the summary trial is to see that in a sitting or two, the entire case must be over. Otherwise, if a case should drag on—in the nature of things, ordinarily, the magistrates have so much work and a lot of time will be taken for the trial of cases—the purpose itself will be lost. Anyone convicted for imprisonment for one month and less or a fine of Rs. 2,000 or less he has got a right to go to the high court. If the sentence is more than that, he has certainly got a right of appeal.

Shri Bade: Not on facts, but only on law.

Shri A. S. Alva: The appeal must be only on law points. The procedure in respect of summary proceedings is that you do not take down the deposition of the witnesses. The only record which the appellate court can look into is the judgment, which embodies the summary of the deposition of the witnesses. As a matter of fact, in such matters certainly we can expect the magistrates to give proper justice. After all, they are hearing evidence. It is very unfortunate that some hon. Members said that the magistrates are the friends of the rich people or of Government. We know that our magistrates and judges are above reproach. Whenever anything goes wrong, we always say that a judicial enquiry may be held, because we have got so much respect for judges. So, certainly we can entrust the magistrate, who is awarding punishment up to one month and a fine of Rs. 2,000 to do justice.

I think there is some lacuna in the Bill. They want to introduce a new section 12A which says:

“Provided that, in the case of any conviction in summary trial under this section, it shall be lawful for the magistrate to pass a sentence of imprisonment for a term not exceeding one year.”

There is absolutely no provision for any fine. I find Mr. More has given an amendment saying that they can sentence them to a fine of Rs. 2000 also. As the clause stands at present, no magistrate who is trying a case summarily can award a sentence of fine. I believe the Minister will look into the matter, because there is no other provision, apart from this Bill, which will enable the magistrate to sentence any person to a fine.

In clause (4) also, there seems to be some ambiguity. It says: that if no witnesses have been examined when the Act comes into force, then the case has to be made over to a magistrate who is competent to try the case. The wording is not very happy. It simply says:

“All cases pending before a magistrate who is not competent to try the same in a summary way under this section, it shall be forwarded to a magistrate so competent if no witnesses are examined”.

It is not mentioned as to who shall forward the case, whether it is that magistrate before whom the case is pending or any other authority. Also, the wording must be that it shall be forwarded to a magistrate having jurisdiction. I hope the Minister will look into this. The wording must be “he shall forward the same to a magistrate who is competent and having jurisdiction”, because as it now stands, it is not necessary that it shall be forwarded to a magistrate having jurisdiction. Under this Act, we envisage special magistrates to be

appointed for certain areas. Therefore, if any magistrate is seized of a case and no witness has been examined, it must be the proper thing to transfer it to a magistrate who has got jurisdiction.

Shri C. Subramaniam: Competence will include jurisdiction also. Otherwise, he shall not be competent.

Shri A. S. Alva: Competent magistrate only means a magistrate who has been so empowered; it does not necessarily mean he must have jurisdiction over that area. That is very important. Further, it is not clear as to who shall forward the case. It is the magistrate before whom the case is pending or is it the Government? The proper thing would be to provide "he shall forward", that is, the magistrate before whom the case is pending. It is said: "It shall be forwarded". By whom? Therefore, this lacuna may be looked into. Certainly, this is not happily worded. Otherwise, there is nothing wrong in this. As I said, ordinarily nobody need be very apprehensive of the sentence and we need not unnecessarily labour ourselves that no appeal has been provided. As a matter of fact, there is ample provision, as I submitted, for any person to go to the High Court. Not even special leave is necessary. Anybody can go. It is not only that anybody can go, even the High Court itself has the power to call for records and then examine them and pass orders.

Therefore, Madam, I support the Bill.

Shri Hari Vishnu Kamath: Chairman—Madam, after having played ducks and drakes with the production, supply and distribution of foodgrains for over a long stretch of years and having connived at the misdemeanours and mal-practices of anti-social elements such as hoarders, profiteers and blackmarketeers—I am reminded, Madam, in this connection of the, somewhat, shall I say, cynical saying coined by a rhymester, not a poet,

"the blacker the blackmarketer, the whiter is his cap"—the Government has come to this House with a measure to replace an ordinance promulgated on the 5th November. I charge the Government that it is not the traders, it is not the producers between whom the Food Minister discovered an axis, late August—he should have taken action then—it is not those who are guilty, but the more guilty people adorn the Treasury Benches.

An hon. Member They have already pleaded guilty.

Shri Hari Vishnu Kamath: Some of the biggest criminals un-hung are on the Treasury Benches today. I pleaded, I urged, since the Chinese invaded India and the Defence of India Act was passed by the House and powers were given to the Government in abundance, in profusion—whatever they wanted was given—that action should be taken against anti-social elements. We pleaded, we urged during the last two years—I and the party to which I belong—but nothing was done for two long years. They had ample powers. But they were misused against Opposition Members in the country and detain them behind the bars. When I raised this point twice in the House, when I urged with all the vehemence at my command, with all the earnestness at my command, that blackmarketers and profiteers should be made an example of—if you make an example of a few it will be a solutary example for many like them, I said—when I said that they should be flogged in public, what did the Finance Minister say? The then Finance Minister, Shri Morarji Desai said: "I do not like flogging, it is barbarous; I do not mind hanging"—not hanging himself, but hanging other people. I immediately got up and said: "I hope you mean what you say and you represent the Government's view". Because, Madam, his predecessor. I remember, whom you know very well, Shri Karmarkar; when he was the Health Minister, suggested in his speech outside and also repeated it inside that

[Shri Hari Vishnu Kamath]

"adulterators are potential murderers and deserve the highest penalty under the law, that is, capital punishment". I recall here the late Prime Minister's high-falatin declaration in 1950-51, in the Provisional Parliament, when he declared: "We stand or fall by this undertaking, by this promise, that India shall be self-sufficient in food in the next five years", and every measure will be taken to implement this declaration. But nothing has been done to implement it even till today. Recently, our Prime Minister has stated that we are going to have the food problem with us for many years to come. But has the Government taken the situation seriously at all?

We, the representatives of various political parties in the House, were invited to a conference in early September. Members belonging to all groups were there; the Prime Minister was there as also the Food Minister, Shri C. Subramaniam. At that conference a solemn declaration was made, a solemn promise was given that it was only a preliminary conference to discuss the short-term measures, there would be another conference to discuss the long-term measures. But up till now nothing has been done to honour that declaration, to honour that promise.

So, it is a mockery that goes on under this Government. I had given notice of a question, asking what is being done with regard to the long-term measures. What does the Prime Minister say? I have got this fantastic note. I do not blame this Secretariat for they have been advised by the Ministry and they have simply passed on the communication of the Ministry. The note says that the statement of mine lacks factual basis. The Government has lied to Parliament Secretariat. The people adorning the Treasury Benches, the Prime Minister and the Food Minister, made a solemn declaration or promise that they will convene another conference to discuss the long-term measures and

when I ask a question about that conference, I receive such a note. Can we trust such a government, which so blatantly lies, which does not honour its commitment, which has in its midst, in its ranks, potential "murderers", in the sense it does not take sufficient measures to deal with the food situation and thereby feed the people? It is not my phrase, but the phrase of a former Minister, Shri Karmarkar. This Government, following in the footsteps of the British Government, perhaps in a worst form than that Government, takes measures too late and too little. Were they sleeping all this time? I noticed that one of the Ministers was having a nap when the debate was going on. Perhaps, the food situation has eased to a certain extent, or even to a large extent and after a hearty meal he was having a little nap. I do not blame him for that.

But the Government was really sleeping for the last two years. The Minister has stated that these draconian powers have been taken and the permanent laws or statutes are being amended. Draconian powers, I believe, were conferred under the Defence of India Act. But they do not want to take those powers under the Defence of India Act; they want to amend the permanent statutes, the Essential Commodities Act and the Criminal Law Amendment Act.

I, therefore, charge the Government with *mala fides*. If they really meant business, if they really viewed the situation seriously, they should have come to the House in the last session, September session of Parliament, soon after the conference where the Prime Minister and Food Minister and representatives of all groups discussed this situation in all seriousness. If they were in earnest about it, they should have done that. But what happened? Fifteen days' grace was given to the hoarders soon after that! We were astounded to see that fifteen days of grace was given to the hoarders to spirit away all their hoards

or conceal their stocks where the authorities could not detect them.

Is the Minister honest in saying that the Ordinance was promulgated because of urgency? Here is an answer to a question given in this session, on the 2nd December, not by him but by the Home Minister. The question stood in the name of four hon. Members. That particular question was:

“Will the hon. Home Minister be pleased to state:

(a) the number of cases tried so far under the Ordinance for summary trial of unscrupulous traders and abetting public servants;.....”.

What is the answer? “None reported so far”. Does it mean that no offence has been committed or does it mean that Government were reluctant to bring the offenders to book? Surely, I do not know. This clearly shows that under the Ordinance none has been brought to book so far. Then, there was the question whether all States have set up special magistrates for this purpose. I suppose we have got . . . how many States? I believe, 16. The answer is “13 States have so far taken action”. Which are the other three States? I do not know why they have not taken those State Governments to task for not having set up the machinery for trial under the Ordinance. The last question was, it is rather laughable: “the reasons for delay in bringing the erring traders under the ordinance”. I suppose after the answer to the first part of the question, he should have stated “it does not arise”, but actually the answer in “There has been no avoidable delay”. I cannot reconcile the answer to the last part with the answer to the first part. God alone, or the Minister perhaps who has given the answer, will be able to reconcile the answers to these two parts of the question.

The machinery that we have in this country today is, unfortunately, not

as efficient, and honest as we would like it to be. There is corruption in our country. That is universally admitted now. The Sadachar Samiti, the Santhanam Committee—all have thrown adequate light on this situation. This prevailing, pervasive miasma of corruption has also given rise to these anti-social practices indulged in by traders, big producers and which have taken root in the country. But the Government was lackadaisical; the Government was too somnolent, if not too moribund, to take adequate measures to deal with the situation. Now, belatedly they come forward with a measure to punish only the traders.

I am all for punishing the anti-social elements. I am fully in favour of punishing the anti-social elements. But the nation will ask: Who are the really guilty men? Can the Minister and his colleagues lay their hands on their hearts and say, “We are free from the guilt”? I ask them in all seriousness, in all earnestness. Can they say? Can they tell the nation? They can say, “Yes”, but not honestly.

You, Chairman-Madam, were Chairman of the Joint Committee on the Prevention of Food Adulteration Bill and you remember that so often it was mentioned by members of the Committee, even when the West Bengal Food Minister, Shrimati Purabi Mukerjee, gave evidence before the Committee, that the Government was hand in glove with these elements, who are indicated in this explanatory statement, for ulterior motives, because they are the financiers for their election campaigns, they contribute to the Party's election funds.

An hon. Member: That is for you also.

Shri Hari Vishnu Kamath: I know very well. I can quote chapter and verse. I can give instances. We know the facts, but because of lack of time I cannot state the facts. If the Chairman can give me more time, I can do better justice to the issue.

Mr. Chairman: I would request him to conclude.

Shri Nath Pai: Let him have five minutes more.

Shri Hari Vishnu Kamath: I am concluding. I was referring to the inadequacy, the inefficiency and the corruption in our machinery. That is why we are rather afraid to place trust in summary trials. We have not only an inefficient but a sycophantic machinery. Flunkeys and donkeys in some places rule the roost. That is why we are a bit reluctant. I am for summary trials but only where there are competent, honest judicial officers who are free from corruption, who are efficient and who are devoted to their duty. How many can we find of that calibre in this country?

Shri D. C. Sharma (Gurdaspur): On a point of order.

Shri Hari Vishnu Kamath: I will yield only if it is a point of order, not otherwise.

Mr. Chairman: He is saying that it is a point of order.

Shri Hari Vishnu Kamath: Let him quote the rule and the article.

Shri Shinkre: Rule number?

Shri Hari Vishnu Kamath: The Speaker has said so.

Shri D. C. Sharma: He used the words "flunkeys and donkeys". He was himself a member of the Indian Civil Service at one time.

Shri Nath Pai: Quite correct.

Shri Sham Lal Saraf (Jammu and Kashmir): He has ruled out mules.

Shri Shinkre: Does the hon. Member know that he is making a point of order?

Shri D. C. Sharma: It is a point of order. I want to ask him, through

you, if he is justified in describing every member of the Indian Civil Service, to which he belonged at one time, the Indian Administrative Service, the Indian Police Service, the Indian Forest Service etc. as flunkeys and donkeys.

16.29 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Nambiar: That is a phrase.

Shri D. C. Sharma: I think, it is going too far.

Shri Nambiar: The spirit of it should be taken.

Shri D. C. Sharma: He should not use hard words. I think, it is very intemperate use of the language. My point of order consists in this that the words have not been properly chosen and that the whole set has been described in such an exaggerated and inflated manner.

Shri Nambiar: What is the point of order?

Shri Hari Vishnu Kamath: Under what rule?

Shri Nath Pai: May I, Mr. Deputy-Speaker.....

Mr. Deputy-Speaker: It is spoken in lighter vein. There is no point of order. Mr. Kamath, have you finished? Please finish it quickly.

Shri Hari Vishnu Kamath: I am closing in one or two minutes.

I had said, Sir, "in some places". I was speaking about the machinery, the administrative machinery, that will be devised and brought into existence for the purpose of administering this law. Had we full confidence in the machinery, the fullest confidence in the integrity and the efficiency of this machinery, I would have even gone farther than that, and I would have even laid down in the law

that it should be not merely one month but even six months by summary trial but not with the machinery that this Government has fostered, patronised and molly-coddled all these years.

Sir, I know of a case that happened in Kerala where I was a few months ago. In Kerala, there was a trader who was brought to book by the District Magistrate of Alleppey. But the Minister countermanded the District Magistrate's order—and why?—on the flimsy ground, favouritist ground, that the trader was closely related to the Deputy-Speaker—not you, Sir—of the Kerala Legislature.

Mr. Deputy-Speaker: I have no such relatives.

Shri Hari Vishnu Kamath: Not you, Sir. That is why I made it clear and paused after that word. This was raised in the House—I do not know whether by Mr. Nambiar or Mr. Gopalan—and that is why I remember it vividly.....

Shri Maniyangadan (Kottayam): In that very case, the order of the District Magistrate was set aside by the High Court subsequently. So, the Minister's action was justified by the High Court.

Shri Hari Vishnu Kamath: You have not followed the argument. I saw you walking in just now. You have not followed the argument. If the Minister were to administer the law, it is a different matter.

Shri Maniyangadan: The Minister found that it was not a justifiable order and, therefore, he stayed the order. That is all. Subsequently, the order was set aside by the High Court.

Shri Hari Vishnu Kamath: Whatever it is, the Minister or the Government interferes in the day-to-day administration and, that engenders demoralisation and sycophancy in the administration.

Shri Maniyangadan: Does the hon. Member want that anything done by the officers should not be interfered with by the Ministers?

Shri Hari Vishnu Kamath: You speak when your turn comes.

Before I conclude, I would only like to suggest that the Ordinance was not at all necessary at the time. If they were really serious, they should have brought a Bill in September or they could have waited another 10 days for the House to re-assemble because to date no action has been taken under the Ordinance. No case has been tried. That is why I oppose this. The ordinance making power is obnoxious. We opposed it in the Constituent Assembly—you were present and you too opposed it, I believe—and, therefore, this Article should be repealed at the earliest opportunity. About the Bill, I extend my partial support to this Bill, not full support to all the provisions of the Bill because unless we are assured that this power of summary trial will not be abused and that it will not be an engine of oppression against small traders and small fry, but that they will really catch the big fish, not just small fry and harass them, my Party cannot think of supporting this measure fully. I will reserve further remarks for a later stage when the clause-by-clause consideration of the Bill will be taken up.

Shri Bhagwat Jha Azad: (Bhagalpur): I want to remind the House that whenever there had been proposals from Government or advice from Government to the trading class or to the middlemen to check the rising prices, they had always tried to flout it. I remember that the Prime Minister of India had made an announcement and said that if the prices were not brought down and if the trading class did not behave properly, he would give only a fortnight's time to the business class and then take some action. But nothing happened. They did not care to heed the advice of the Prime Minister of India. I can quote

[Shri Bhagwat Jha Azad]

half a dozen statements by the Food Minister in which advice coupled with warning was given to the trading class to behave properly and also to look to the interests of the common people, but nothing happened, and they did not care for the advice. Rather, on the other hand, they have always tried to make a joke of it, and behaved just the other way. I shall quote only two instances. When the National Development Council was meeting in Delhi, it was announced that Government proposed to take wide powers to curb the rise in prices; the trading class in India and especially in Delhi celebrated this announcement by Government by raising the prices of certain commodities by 20 per cent in Delhi. When the ordinance was promulgated, the other day, that is, just a few days before, we found that the price of wheat went up by Rs. 6 per quintal. That is how every time Government have shown the slightest or even a big intention to do something either by giving advice or warning or both, the trading class in the country has been behaving just the other way and has increased the prices still further.

Therefore, it was very necessary for Government to take such wide powers under which they could summarily try these culprits or those criminals or those anti-social elements in this country and also those officers who colluded with them or who conspired with them or who supported them or who connived at their activities. It was high time that Government had such powers. Rather, I would say that it is too late in the day that Government have come forward with this ordinance and with this Bill. They should have come much earlier.

We know that since June, the prices were ruling very high in the country. The prices of foodstuffs and other essential commodities for the common man were ruling very high, and their supply and distribution channels were all vitiated and they were attacked by

the middlemen and the trading class, and they tried to do away with the entire normal channel, so much so, that free trade and free enterprise for which Shri Dandekar and his party have got so much of love became synonyms for blackmarketing, profiteering and hoarding. Today, free trade in this country does not mean free trade for the common man's good; it does not mean free trade for the prosperity and health of the nation, but it only means free trade for a handful of persons who corner the entire thing, supported by the big industrialists and by the big banks in this country who give them the necessary advances. The banks in this country never gave advance or loan to the small farmers, but they could very easily give advances to the food traders and those who could hoard the entire stocks.

Therefore, when the prices were going up every day, when the distribution and supply channels for food-grains and other essentials of life had been absolutely vitiated and the entire community had been held to ransom by these fellows who supported the Swatantra Party, it was essential for Government to come forward with this ordinance and later on with this Bill, and take these powers.

Now, why are these wide powers being taken by Government for summary trial of the offenders? That is because under the normal procedure one has to go a long long way, starting from the lower court and going up to the High Court and even to the Supreme Court, and in the end even if the man be punished, nobody knows that really it is the culprit or the guilty man who has been punished. The powers for summary trial are very necessary at this time when there is a good deal of blackmarketing, profiteering and hoarding. But what do we find? We find that those who are speaking from the Jan Sangh and the Swatantra Party are raising a hue and cry about the denial of fundamental rights and

the rule of law. They seem to have become strange bed-fellows now and they start shouting that the rule of law is coming to an end and so on. I submit that nothing big is being done at all, but only something small is being done. I even accept the statement of my hon. friend Shri Kamath that it is too late in the day to shout against this Bill. I also would say that it is too late and also too little. And yet my hon. friends from the Jan Sangh and the Swatantra Party shout that this Bill puts an end to jurisprudence and puts an end to the common law and so on. It is like the devil quoting the scripture. The Swatantra Party and the Jan Sangh are now, in the name of the common man, crying for sugar, for wheat and for rice. When Government say: "we do not say we have adopted foolproof methods; we have committed mistakes; we want to come up with this measure late in the day and want to correct the mistakes of the past", these people talk of a great injustice being done. They quote the Constitution and talk about jurisprudence. Shri Dandekar asks: what is a 'dealer', what is 'foodstuffs'. All these definitions he wants now when the Bill is before the House. It is typical of the bureaucratic mind that he reveals, which he was showing all the years in his past career. Now he wants to teach us or deliver sermons to us in the name of the common man to this House and to the Members.

I say Government should have this power. In fact, the powers of punishment should be increased. Punishment by imprisonment without appeal should be enhanced to six months and the fine should be raised from Rs. 5,000 to Rs. 10,000. Government should say that persons who are found guilty will lose their property by confiscation. This should be the law.

Shri Shinkre: What is the harm in allowing appeal?

Shri Bhagwat Jha Azad: I appreciate the sentiment of my hon. friend, who is a socialist, who has got his

feelings for the people who corner stocks of foodstuffs.

Shri Shinkre: Not at all. If we refuse appeal, are we not implying that we do not have a judiciary worth the name? When we have a judiciary, such as we have, what is the harm?

Shri Bhagwat Jha Azad: What a plea on the part of these friends in the name of the common man? For whom is the appeal? For the blackmarketeers? For the profiteers? For the hoarders? This is the type of socialists we have over there. Scratch them and you will find they are supporters of the Swatantra and Jan Sangh. When Government come forward with a measure of this type, they accuse the Government and the Party. This is the type of socialist friends we have in the Opposition.

Therefore, I say to Government: though it is late in the day, it is a good measure. But I want to know one thing. Since the Ordinance was promulgated—this question was put; we also put supplementaries,—how many persons have been punished under it? The answer was, none. Is it a fact that after the promulgation of the Ordinance these anti-social elements, profiteers, hoarders and blackmarketeers have started behaving properly? Is it not a fact that after the Ordinance was promulgated in this very city—not in the distant parts of the country—under the very nose of this Government, the wheat traders increased the price? The hon. Minister will remember that the officials also had a hand in it. The next day the price shot up by Rs. 6 per quintal. Why should Government feel helpless in the matter? What is the fun of the Prime Minister of India or the Home Minister of India throwing up their hands in despair and saying 'What can I do? I am helpless'. They have the power; they have the entire 450 million people behind them. They have Parliament behind them. Why should they not take action against these fellows, this small small class

[Shri Bhagwat Jha Azad]

which is holding the entire community to ransom?

It is not as if the powers are not there. The powers are there, enough powers. We are prepared to give a blanket power to Government. But the Government must prove they are capable of wielding those powers against anti-social elements. These Birlas go and Tatas go and issue statements, as Shri Sinhasan Singh said, in *Panchjanya*, a Jan Sangh paper....

Shri Bade: It is not a Jan Sangh paper.

Shri Bhagwat Jha Azad: I want to tell Government, that these friends are there everywhere. They have got so many doors. It is just possible that they come to the Congress by the open door, to the Swatantra Party by the windows, by the side door to the Jana Sangh and by the back door to the Communist Party, because they always think: who knows who will come to power?

Therefore, when the Government has got enough power, when the entire Parliament and people are behind them, they have to think why they are not succeeding. The answer is, that the administration, which thinks in terms of Shri Dandekar, that bureaucracy, is in connivance with them. If they are not in connivance, why are they not successful? In how many cases have these raids been able to unearth black money or foodstuffs? Either the administration is foolish enough not to locate the proper quarters, or they inform the persons concerned, and are dishonest. If not, let them prove their worth by catching the hoarders, blackmarketeers and profiteers under this provision. We shall wait in patience for the coming two months to see how the administration, the Government and the Minister, armed with this power, look after the interests of the common man, and bring to book these profiteers, blackmarketeers and hoarders in this country.

Shri Bade: The time may be extended as we have proposed at the beginning.

Mr. Deputy-Speaker: We will extend it by one more hour.

Hon. Members will take ten minutes each.

Dr. Sarojini Mahishi (Dharwar North): Members of the Opposition have very eloquently spoken regarding the principles of natural justice, and Members of the Congress Party also referred to this fact that there are precedents to the violation of the rule of law in the commercial and industrial fields, and asked why there should not be a violation of the rule of law in this field also. That is no argument at all. I say that for the proper enjoyment of fundamental rights, reasonable restrictions are essential, and here also, for the proper enforcement of the rule of law, certain reasonable restrictions are quite essential.

There is no doubt about the acute shortage of food in the country, and the fact that people are suffering to a very great extent due to shooting prices and non-availability of foodstuffs. Long queues are standing for hours together before the consumers' co-operatives to get a pound of sugar or a kilo of wheat. The remedial measures taken by the administration, and the legal measures being taken by the Government, are being circumvented by the trade and the middlemen. I do not understand how Government could not implement all these things effectively.

The Mahalanobis Committee has reported that the price, during all these years, has been shooting up, and that the national income of the citizens has not risen very considerably. The consumption level or the consumption capacity of the individual of the lower ten per cent in the rural areas is hardly 31 paise, and that of his counterpart in the urban area is something like 41 paise, and that of the upper ten per cent of the total population is something like 61 paise. So, there is not a very vast difference.

It may also be seen that due to the rise in prices especially of the essential commodities, the consumer price index rose from 132 in June, 1963 to 138 in November, 1964, and it is still rising. Therefore, it is clearly indicated that even the essential commodities have not been controlled properly, even though there are adequate legal and administrative powers. The only difficulty is that there is no proper implementation.

I agree with Shri Kamath when he says that there are restrictions on drugs and cosmetics and for prevention of food adulteration. While listening to the evidence in the Select Committee on the Prevention of Food Adulteration Bill, I found that many traders and businessmen gave this excuse that the trading community was required to adulterate due to shortage of food. The shortage of food is not an excuse for adulteration, but the trading community was very vocal on this point that they were compelled to adulterate due to shortage of food.

Why is there shortage of food? There are different reasons, different factors; the action and reaction of these factors go to create shortage of food in the country. We should no doubt try to grow more food, try to remove the deficiencies which come in the way of growing more food, try to remove the lacuna that exist in our legal and administrative measures, and give proper encouragement to the cultivating community. In the existing circumstances, when there is acute shortage of food, whatever foodstuffs we have got with us should be properly distributed and regulated. Certain stringent measures are before the House to see that these are properly regulated.

But I am rather diffident. There are so many powers under the Defence of India Rules taken by the Government, so also under the Essential Commodities Act of 1955. There was section 12 of the 1955 Act:

"Notwithstanding anything contained in section 32 of the Code

of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening any order made under section 3."

Therefore, as far as contravention of any order made under section 3 was concerned, there were already certain powers. Now the powers are enhanced. I am doubtful and diffident as to how these are going to be exercised where the executive and the magistracy are not separated. I hope the Minister will take that point also into consideration. This Bill gives powers for summary trial by magistrates and there is no provision for appeal in respect of certain cases. Of course there are special provisions also under different enactments, even under the Prevention of Food Adulteration Act, to sentence a person to periods of imprisonment ranging from 6 months to 6 years, as also fine. But the main thing is that the culprits must be brought to book and there must be proper implementation. To whomsoever you talk in the country, the main complaint is that the law that is in force is not being properly implemented. We cannot create a ridiculous position by having a number of laws and not implementing them. This is a sovereign legislature meant for legislating. This legislation is only to see that certain things are being regulated and the citizen is guaranteed his Fundamental Rights. Therefore, I am fully in favour of these enactments. The Minister should not only get this legislation passed but he should see that there is proper implementation also. Section 2 defines the essential commodities: cattle fodder including oil cakes and other concentrates, coal, including coke and other derivatives. So, essential commodities include not only foodstuffs but other things also that are essential for a person to lead an honest and decent life. Restriction

[Dr. Sarojini Mahishi]

is necessary and control is necessary. But control cannot be carried on for a long time. It cannot be a permanent measure. It is a very bad economy if it is a permanent measure. In an under-developed country, capital intensive measures are undertaken and public sector industries are in the gestation period. It will not be very difficult to throw consumer goods before the public but we cannot do so now. By all this investment and other expenditure, money flows into the hands of the public and when consumer goods are not thrown before the public, prices are bound to shoot up. When prices shoot up, the possibility of these vices such as profiteering and hoarding are there; they creep into the body of the society. Therefore, I would like to say that with all these inherent powers of summary trial, with the provision that there is no further appeal also from a decision given in the summary trial, many Members have expressed the wish that this imprisonment period should also be enhanced and the fine also should be enhanced. It may be enhanced, but then this will act as a deterrent; it should act as a deterrent. What I mean is, in order that it should act as a deterrent, there should be proper implementation of this particular law so that the society or the trading community or whosoever is the culprit may be afraid of entering into such mischievous action.

Shri Nambiar: Mr. Deputy-Speaker, Sir, I am for supporting the measure wholeheartedly, but I have my own reasons for supporting it, because some measures are being taken to the extent that I must support them, but I am not satisfied, as has been said just now by the hon. lady Member, about the prospects of the implementation of the measure. What has caused the Government to come forward with such a measure? Is it because that there is no foodstuff available in the country for the people, or, is it due to the actual non-availability that the prices have gone up, or, is it

due to some other reasons? The facts that the Government have given to us so far show that enough quantity of foodstuff is available. The statistics given in the pocket book for 1963 mentions the availability of foodgrains. According to that, the *per capita* availability of foodgrains in 1951 was 13:5 ounces per day; 1956, 16:2; 1959, 14:7; 1960, 15:7; 1961, 16:2 and 1962, 15:8. We have these figures up to 1962 only. Even after that, during 1963 and 1964, the production has gone up; that is what we are told. So, the availability is there. Imports have continued to be done. With all this, there should not have been a sort of scarcity that is prevailing today.

Then, what is the reason for the actual shortage that is now prevalent? It is clear and it is an elementary arithmetic or commonsense for any body to understand—that the available foodstuff has gone underground, has been hidden somewhere; it is lying hidden. That is clear. It is the commonsense point of view. The people understand it in that way. We know that the Government was not doing any monopoly trade. Government did not have physical possession of the foodgrains. Therefore, the entire stock was lying with the people who were in the trade, and that is why we accuse the traders who are wholesalers or sometimes even retailers, who are responsible for this muddle. We do not deny the fact, but the responsibility of the Government lies in this. What was the Government doing all these days when the traders misbehaved, when the Government knew where the stocks lay hidden? Therefore, though it may not be the Central Government or the team of the Ministers here or the State Governments as a whole, there are Ministers—and there are powers with the government to prevent it—and those who are sitting around them who are one with the traders and connive in this manner so that they are allowed in a way to see that these things lie hidden. That is why we say that the Government was

not taking proper and adequate measures to see that the foodstuffs reached the people and in time. They could not unearth it because it was kept hidden from their sight. In this respect, we accuse the Government.

17 hrs.

Shri Bhagwat Jha Azad said that when the Government takes measures the Opposition accuses; when the Government do not take measures the Opposition accuses, but if the Government takes measures only when we point out to them and when they just take a certain measure which is paltry and they just make a show only to whitewash their sin, are we to allow the Government to go unscathed in such a manner? I have my own share of feelings that the hon. Member on

the other side had. Government in these matters must come fully armed with powers and must act swiftly at that time. Otherwise, you cannot save the situation.

For instance, in my State of Madras....

Mr. Deputy-Speaker: Is he likely to take more time?

Shri Nambiar: Yes, Sir.

Mr. Deputy-Speaker: He may continue tomorrow.

17.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, December 9, 1964|Agrahayana 18, 1886 (Saka).