

Table, under sub-section (3) of section 458 of the Merchant Shipping Act, 1958, a copy of the Ministry of Transport and Communications (Department of Transport) Notification G.S.R. No. 494, dated the 27th March, 1961, publishing the Shipping Development Fund (Loans) Rules, 1961. [Placed in Library. See No. LT-2924/61.]

NOTIFICATION REGULATING SELLING PRICE OF RICE/PADDY IN ORISSA

THE DEPUTY MINISTER OF FOOD AND AGRICULTURE (SHRI A. M. THOMAS): Sir, I beg to lay on the Table under sub-section (6) of section 3 of the Essential Commodities Act, 1955, a copy of the Ministry of Food and Agriculture (Department of Food) Notification G.S.R. No. 537, dated the 17th April, 1961, regulating the selling price of rice or paddy in the State of Orissa. [Placed in Library, See No. LT-2902/61.]

ANNUAL ACCOUNTS OF A. I. I. AND I. A. C. AND AUDIT REPORTS THEREON

THE DEPUTY MINISTER OF CIVIL AVIATION (SHRI AHMED MOHIUDDIN): Sir, I beg to lay on the Table, under sub-section (4) of section 15 of the Air Corporations Act, 1953, a copy of the Annual Accounts of the Air-India International Corporation for the year 1958-59 and the Audit Report thereon. [Placed in Library. See No. LT-2926/61.]

Sir, I also beg to lay on the Table, under sub-section (4) of section 15 of the Air Corporations Act, 1953, a copy of the Annual Accounts of the Indian Airlines Corporation for the year 1957-58 and the Audit Report thereon. [Placed in Library. See No. LT-2927/61.]

SUMMARIES OF BUDGET ESTIMATES (1961-62) OF A. I. I. AND I. A. C. AND RELATED PAPERS

SHRI AHMED MOHIUDDIN: I also beg to lay on the Table, under sub-rule (5) of rule 3 of the Air Corporations Rules 1954, a copy each of the following papers:—

I. (i) Summary of Budget Estimates of Revenue and Expenditure of the Air-India International Corporation for the year 1961-62.

(ii) Summary of Actuals for the year 1959-60, Budget Estimates and Revised Estimates for 1960-61 and Budget Estimates for the year 1961-62 under Capital, of the Air-India International Corporation.

[Placed in Library. See No. LT-2929/61 for (i) and (ii).]

II. (i) Summary of Budget Estimates of Revenue and Expenditure of the Indian Airlines Corporation for the year 1961-62.

(ii) Summary of Actuals for the year 1959-60, Budget Estimates and Revised Estimates for 1960-61 and Budget Estimates for the year 1961-62 under Capital, of the Indian Airlines Corporation.

[Placed in Library. See No. LT-2928/61 for (i) and (ii).]

**THE ESSENTIAL COMMODITIES (AMENDMENT) BILL, 1961—
continued**

SHRI BHUPESH GUPTA (West Bengal): Sir, before the House adjourned for lunch yesterday, I had started speaking on the Essential Commodities (Amendment) Bill. I have got here with me the Bill, as introduced. In the Statement of Objects and Reasons, Government point out that in certain cases it might be necessary for them not to award the punishment prescribed in the law as it exists at present but to forfeit a part of the deposit. This relates to minor offences under the Essential Commodities Act. I can quite understand this and generally, therefore, nobody would oppose this thing, but the question that I wish to raise in this connection before the

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House is the manner in which this Act is being implemented by the Government, and also by the State Governments. I mention the State Governments because here is a measure which is sponsored by the Ministry of Food and Agriculture and in regard to many aspects of which, I believe, the Central Government has concurrent jurisdiction but much is left to the States. Our experience has been, especially in the State from which I come, namely, West Bengal, that this Act is not implemented properly by the State authorities because of various connections of certain people high up with the big business and others indulging in speculation, hoarding and so on. The result has been that whatever should be done had not been done. In this connection, I would like to read from the big statement that was made on the floor of the West Bengal Assembly by Mr. Siddhartha Sankar Roy who resigned as Judicial Minister. His main complaint was precisely against the manner in which the Essential Commodities Act had either been disregarded by the State Government to defeat the purpose and the policy of the Central Government or distorted in the matter of implementation. Documentary evidence was furnished to the Assembly; orders were shown. Committee reports were also mentioned—reports of committees that were appointed by the Chief Minister of West Bengal to go into the question of administration of the Essential Commodities Act—and these reports contained serious allegations against the District Magistrates and even against the State Food and Agriculture Department in regard to the manner in which this Act, such a vital measure, had been implemented in the State. We also mentioned this in this House and in the other because the Central Government also comes in. The Central Government has got powers under this Act to make rules, to give directions to the States and to supervise the manner in which the particular measure is administered by the States. We found that much that

should have been done was not done. What is the use of talking about punishment of the small fry? Certainly, if they are guilty, they have to be punished, and the smaller the fry, the minor should be the punishment. I agree there, but the point is that the Act is not properly implemented where it should have been properly implemented. We would like to know from the Government as to how many cases have been started under the Essential Commodities Act. We know that foodgrains had been hoarded, speculation had been indulged in, stocks had been removed from one State to another surreptitiously by pulling wool over the eyes of the Government and by unfair and illegal methods. These should have attracted the attention of the Essential Commodities Act.

This Act was passed in 1955 in this Parliament with all good intentions, with a view to putting a check on speculative rise in prices and hoarding and profiteering especially in respect of foodgrains and other essential commodities of life whether produced in the mills or in the fields. When it came to the question of practical implementation of this measure, we found that the Government had failed. Now, Government should say something about it. It is normally done. When Government seeks to amend an Act, it should tell us as to how the parent Act which is proposed to be amended has been implemented. Is it the contention of the Government that difficulty arises because this particular provision is not there in the Act? Are Government in trouble because they do not know how to deal with the smaller fries? Or, is it because that those who are supposed to administer this measure at the State level, at the district level, have thought it fit to ignore it, have thought it fit to by-pass it. If any measure of the Central Government was needed for controlling the price of foodgrains and ensuring the supply of essential commodities to the community, it is the Essential Commodities Act. I would like the Minister to say something on this. I know that he was not here at

the time when we passed this measure; nor was he there when the Essential Commodities Act was bypassed by many State Governments. In the past, we had drawn the attention of the Minister to this problem, and that Minister is now happily going to be the President of the Uttar Pradesh Congress Committee, good luck to him, but here, I would like to ask the Minister who has stepped into his shoes as to what he is doing in order to see to the proper implementation of this Act. How many prosecutions have taken place? The small people, of course, should be dealt with very mildly, I agree, and I support the measure, but taking the law as it is today, without this amendment, it empowers Government to deal very effectively, so far as the provisions of the law go, with the big traders, wholesalers and profiteers. I would like to know as to how they have dealt with them. How many are in jail today? How many have paid fine? How many have suffered imprisonment? How many licences have been cancelled as a result of malpractices, corruption, profiteering and so on all of which are provided for under this Bill? We are entitled to know. Take us into your confidence in regard to this matter. I say from whatever knowledge we have that very few have been prosecuted under this Act. And if it is so, it is not because our blackmarket trade has suddenly become white-market trade or those impious people have suddenly become virtuous with the succession in the office of the Food Minister by a new man. It is not so at all. They continue their operations, maybe more cleverly, more surreptitiously, with greater cunning and foresight but the fact remains that their operations go on. What are they doing? One of the reasons is that they do not have the proper services. The hon. Minister should take into account that aspect of the matter. Therefore, we are not very much heartened when we see such things.

Now, as far as the small traders are concerned, there is a tendency that

when you have a measure to deal with small men, the Government go against them and they hit them. The small men are easy to catch. Small fish may not be easy to catch; it slips through one's fingers but the small men in trade and industry are very easy to catch. The big ones, they leave them alone. Now, what is the guarantee that the small men will not be harassed and persecuted? When we ask such a question, the Food Minister will tell us, 'Look here; you were asking about the number of prosecutions that had been launched. Well, we have launched 10,000 prosecutions in the year 1960.' But these 10,000 prosecutions may be of small men for some minor defaults and between them these 10,000 men perhaps be controlling less stock than what one big trader controls in the country. That is my fear; there may be a diversion from the big to the small. Yesterday you heard how all are treated in the same way; class I and class IV employees are treated equally. So, here my fear is that now the Administration will go after the small men. I know they have also to be apprehended; they have to be dealt with and they have to be prevented from carrying on these malpractices. They must be punished if they do such things; I entirely agree there. I am not supporting the small man in that but the point I wish to stress here is that unless and until we apply the other provisions of the measure to deal with the big men who control huge stocks of essential commodities, who control the life-line of the country's supplies of essential commodities, unless we deal with these people for which we have legislation already, the problems which we want to solve by this type of legislation will not have been solved. It will only lead to harassment of a shopkeeper here, a small trader there, or a vendor here or a caterer there. Such things will happen. The small businessmen and industrialists may suffer but the big ones will not suffer.

This is my fear. Therefore, I would ask the Government to exercise ex-

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extreme caution in the matter of application of this measure against small men. I think it is easier to bring the small men under control otherwise than through penalties or this kind of thing. And what is the security that you will ask? The amount is not fixed; any amount may be asked. The Government may say that they are reasonable people and all that but sometimes they display high-handedness. In some places, in the districts and other places, such heavy sums will be asked to be deposited by the small traders that they may have to go into liquidation in order to find the money. Sarat Chandra Chattopadhyaya, the great Bengali writer, once wrote that in order to live one has to die. In the struggle for life one has to die. In order to carry on the trade, in order to comply with the provisions of this measure, in order to find the deposit that is required under this Act, it may well be that the small trader will have to sell the things and might even have to go into liquidation. What is the guarantee that this will not happen? Is there any guarantee in the Act? I do not find anything except that things are left to the tender mercies of the Government and of course in actual practice of those who are administering the law. That is the position. I do not wish to say very much on the subject but I thought that here was an occasion to remind the hon. Food Minister of the manner in which such measures are liable to be implemented. I think that unless there is proper direction on the part of the Central Government . . .

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, I would . . .

SHRI BHUPESH GUPTA: Sir, Mr. Saksena seems to be very much agitated over this.

SHRI H. P. SAKSENA: I would request him through you to please see the things in their true perspective.

MR. CHAIRMAN: You don't bother about it. He is always like that.

SHRI BHUPESH GUPTA: Sir, I entirely agree with the teacher, Mr. Saksena, that I should see things in the right perspective.

MR. CHAIRMAN: You go on. The Minister has been following you with great attention.

SHRI BHUPESH GUPTA: But he would not follow in practice what I am saying; that is my fear; that is my mortal fear. If he follows that, I shall be very happy and in such matters he can always count not only upon our support but co-operation as well. Will he take the right road or will he take to the path which his predecessor took and . . .

MR. CHAIRMAN: Don't talk about the predecessor. Mr. Himatsingka.

SHRI P. D. HIMATSINGKA (West Bengal): Sir, the amendment that has been suggested to welcome because that will give the Government the opportunity of providing for a small penalty in minor offences and we support this amendment because previously there was no provision whereby small defaults of a technical nature could be dealt with and the penalty provision was so worded that the magistrate had either to allow the culprit to go scot-free or to send him to jail. Therefore, a provision like this is welcome.

So far as the allegations and vituperations put forward by my hon. friend, Mr. Bhupesh Gupta, are concerned, the hon. Mr. Saksena rightly drew your attention to the fact that he is not having a true perspective. He has said many things without quoting even a single instance where the Government has not taken steps against any particular person who was found guilty.

SHRI BHUPESH GUPTA: I referred him to the charges made by Mr. Siddhartha Sankar Roy against the West Bengal Government.

SHRI P. D. HIMATSINGKA: Sir, I welcome this Bill.

MR. CHAIRMAN: It is a good thing that he has not mentioned names. Why do you drag him to that?

SHRI BHUPESH GUPTA: If you like I can mention the name of Mr. Prafulla Sen, West Bengal Food Minister.

SHRI P. D. HIMATSINGKA: Sir, I welcome this measure and give my whole-hearted support to it.

SHRI M. S. GURUPADA SWAMY (Mysore): Sir, the Essential Commodities Act was passed five years ago and when the Minister yesterday came with an amending Bill, we expected that he would give us a brief report on the working of this measure for the last few years.

[MR. DEPUTY CHAIRMAN in the Chair.] But unfortunately we are kept in the dark in regard to the exact working of the Act and the nature of the difficulties the Minister is facing. Sir, as far as I know, many of the provisions of this enactment have been observed more in violation by his agents at the State level. The Food Minister may be very earnest, may be very able and may be very anxious to see that the various provisions of the Act are implemented in the most effective manner at the State level but unfortunately his agents at the State level are not equally enthusiastic or equally anxious to observe the various provisions of this enactment. The most important objectives of this enactment are to control the supply and distribution of commodities and to maintain a stable price level. In regard to both these aspects I am afraid that the Government has failed to realise the objectives in view. Some time past when there was scarcity of foodgrains, attempts were made to make procurement from certain wholesale merchants and from rice mills. In my own State I know of many instances of such procurement where, after making known that certain things had to be done and certain steps had to be taken by the merchant community, nothing was

done later on by the Government, when they found that these very orders of the Government were violated. As a result of the violations, there was a consequent rise in the prices of foodgrains. In respect of other commodities like iron and steel, paper, etc. we see a lot of speculative activities, but the provisions of the Act have not been brought to bear on them. Perhaps no case of prosecution was launched against those people who contravened the various provisions of the Act. We are interested to know in how many cases the Government have taken steps to prosecute individuals who have violated the various sections of the Act. The Minister said that the powers under the Act were not adequate in the sense that they were very drastic—that in cases of a minor nature the Act could not be implemented. We sympathise with the Minister in this regard, but in regard to major offences I want to know what action has been taken by the various State Governments. We see that the price level has been on the increase, more or less, due to the speculative activities of some unscrupulous elements and unfortunately these elements, who are operating so widely in the market, have been doing so as though the law does not exist to control their activities.

In regard to the amending provision, I want to know from the Minister what would be his difficulty even if minor offences are taken to courts of law. For instance, the Motor Vehicles Act deals with various offences, both major and minor, and various minor offences under the Act are taken to courts and people are prosecuted. What is the difficulty in taking these cases of a minor nature to courts of law? There the people will have some safety that they will get a hearing and if the offences are really offences, then they would be prosecuted. Otherwise, they will be acquitted. Here, the Minister says that there should be a security deposit. If there

[Shri M S Gurupada Swamy] is a violation of a particular provision of the enactment, then the executive authority will have the power either to confiscate a part of the amount or the whole of the amount. We are clothing the executive authority with more powers. I do not grudge giving powers to the executive authority, provided they are used properly and effectively, and in a most fair manner. But unfortunately there have been discriminations, apart from the ineffectiveness of the various provisions. Wherever these provisions were used, there had been discriminatory use of these provisions against a few or in favour of a few. Normally, when officers are clothed with more powers, there is large scope for corruption. I feel that it would be desirable to avoid such malpractices and it would be desirable, I think, that even for minor offences the parties should have a chance to defend their actions. I do not think that this problem of dealing with minor offences will become complex or complicated in any way if we take them to courts of law. I want a reply from the Minister in what way he is suffering from a handicap in dealing with minor offences or offences of a technical nature.

The hon. Shri Bhupesh Gupta made the point that even if this thing was acceptable to the House, he did not know what amount would be demanded as security. So, the Minister should tell us what amount is normally expected from a licensee in all cases and what the offences are which are of a technical or minor nature which he has in view. We are not told which are major offences and which are minor offences. Clarifications on these points are necessary.

I wish that the Act which came into effect long ago were implemented properly. I know that the Minister here is very earnest in implementing it, but unfortunately his colleagues at the State level are disappointing him. Unfortunately, no steps have been taken for trimming or toning up

the administration at the lower levels. I feel that the Minister should give more attention to the implementation of the Act and not to seek more and more powers. Unless the assumption of powers is followed up by an effective performance, I think the Act will become useless.

SHRI BABUBHAI CHINAI (Maharashtra): Mr. Deputy Chairman, in the Statement of Objects and Reasons of the Bill it has been mentioned that the Government wants to have this power of partly or wholly forfeiting the security deposit which has been made by merchants instead of prosecuting them and sending them to jail. The object is very laudable, but we have to see what will happen in practice. The Government will naturally ask the merchants, especially the small traders, to furnish more security deposits and; therefore, to that extent the small trader will be handicapped.

Another point to which I want to draw your kind attention is that in all these cases it is the experience of the business community—when the control orders provide for it that the forfeiture of the security deposit may be made—that it is resorted to by the authorities at the district level or at the town level. If such small people, small officers, are given such wide powers of forfeiting the deposits in part or in whole, it is not a desirable thing. In the present case the judiciary has got the power to hear the case and there is a provision for appeal also. In such cases where these powers are given to petty officers, they will arbitrarily use them. And when they know it that the person concerned cannot go to a court of law, instead of prosecuting him in a court, this provision would be a good weapon in their hands to forfeit the security deposit either in part or in full.

There is one more point. We are thinking of separating the judiciary from the executive and at this stage if we give such powers for forfeiting the security deposit either wholly or

partly, I think it is not a desirable thing. Therefore, with all due respect to the hon. Minister I would like to point out to him that he should know the reactions to such a proposal of giving wide powers to the officers, from which there is no appeal at all. I would beseech him to reconsider this matter.

श्री राम सहाय (मध्य प्रदेश) :
उपभारति महोदय, अति आवश्यक वस्तु अधिनियम १९५५ के संशोधन के लिये विधेयक हमारे सामने है उसका मैं समर्थन करता हूँ ।

अभी जो सारी बहस हमारे सामने आई उसमें मुझे ऐसा पता लगता है कि बहुत से ऐतराजात अकारण ही उठाये गये हैं । अभी हमारे दो पूर्व वक्ताओं ने इस बात के बारे में इकरार किया कि इसके इम्प्लीमेंटेशन के प्रश्न पर मिनिस्टर महोदय को विचार करना चाहिये । मेरा तो यह निश्चित मत है कि इम्प्लीमेंटेशन के लिये जितना अधिक विचार मिनिस्टर महोदय ने किया है उससे अधिक शायद ही पहले कभी हुआ हो । हमारे यहाँ दो प्रकार के कानून रहते हैं । एक तो ऐसे हैं जिनको बहुत ही शीघ्रता में इम्प्लीमेंट करने की हमको आवश्यकता होती है । और कुछ ऐसे होते हैं कि जो हमारे शासक अधिकार में तो रहते हैं लेकिन उनको इम्प्लीमेंट करने की तभी जरूरत होती है जब कि कोई खास स्थिति पैदा होती है । मेरा ऐसा खयाल है कि यह एक ऐसा कानून है कि हम को इस पर उस वक्त ही अमल करना चाहिये, या उस वक्त ही इस पर शीघ्रता से कार्यवाही करनी चाहिये जब कि हम देखें कि जनता में कोई तकलीफ है । हमने यह देखा है कि हमारा जो कानून है उसमें अति आवश्यक वस्तुओं में सभी प्रकार की वस्तुएँ जो रोजमर्रा के लिये जरूरी होती हैं वे शामिल कर ली गई हैं, मसलन हमारे खाने-पीने की मारी वस्तुएँ हैं, अनाज, मवेशियों और जानवरों के खाने-पीने की जितनी चीजें हैं, वे और कागज इत्यादि, लोहा, कोयला

स्टील, आदि इस प्रकार की जो रोजमर्रा के काम की चीजें हैं वे सब हमने इसमें शामिल कर ली हैं । मैं तो ऐसा समझता हूँ कि जिसकी हमेशा हमको शिकायत रहती थी वह खाद्यान्न के बारे में रहती थी और उसके लिये इस विधेयक में खास व्यवस्था है । मेरा तो ऐसा निश्चित मत है कि इस समय हमारे मिनिस्टर महोदय ने विधेयक में जो व्यवस्था रख दी है उसमें कोई मस्ती से इम्प्लीमेंट करने की बात रह ही नहीं गई है । मैं तो समझता हूँ कि उसके लिये वे बचाई के पात्र होने चाहिये, बजाय इसके कि उन पर कोई इस प्रकार का ऐतराज किया जाय । जहाँ तक मेरा खयाल है, जो खास तजवीज हमारे रोजमर्रा के खाद्यान्न के लिये थी उसकी व्यवस्था जितनी सुदृढ़ता से और जितने अच्छे तरीके से की गई है—और जिससे किसानों और व्यापारियों को और सबको ही बहुत कुछ सुविधा मिली है—उससे कोई इन्कार नहीं कर सकता ।

मैं एक बात यह निवेदन करना चाहता हूँ कि जैसा कि अभी कहा गया, कि इसको इम्प्लीमेंट न करते हुए भी कुछ पावर लेने की कोशिश की गई है, इसके बारे में मैं तो समझता हूँ कि सिक्योरिटी जव्त करने की जो पावर है वह कोई ऐसी पावर नहीं है कि जो बहुत सख्त है । सिक्योरिटी जो ली जाती है उसका असली उद्देश्य, मकसद, यह होता है कि वह इसलिये ली जाय कि जिस काम के लिये लाइसेंस पाने के लिये वह जमा की गई है अगर उसमें किसी प्रकार की त्रुटियाँ, खिलाफतें, की जाय तो उसे जव्त कर लिया जाय । तो वाकई मैं समझता हूँ कि जब गवर्नमेंट ने सब उपायों को काम में लाकर देख लिया तभी उसकी समझ में यह बात आई कि इसमें इस बात की भी आवश्यकता है कि इस प्रकार के अधिकार भी रहने चाहिये । तो मैं समझता हूँ कि यह कोई ऐसा बड़ा अधिकार नहीं है कि जिसको हासिल करने के लिये शासन लालायित हो । वह तो एक जरूरत थी, एक नैसर्गिक

[श्री राम सहाय]

मालूम होती थी इस बात की कि जहां एक साधारण तरीके पर, बिला किसी और कार्यवाही के किये हुए, महज सिक्वोरिटी को ही ज्वट करने से काम चल सकता है तो इस प्रकार का कार्य करना चाहिये। मैं समझता हूं, इसमें तो गवर्नमेंट ने बहुत बुद्धिमत्ता से कार्य किया है कि बजाय इसके कि लाइसेंसहोल्डर को या जिनका उससे संबंध है, उनको किसी बेजान परेशानी में या और किसी ज्यादा नुकसान में डाला जाय, उनके लिये लाइसेंस के वास्ते जमानत की व्यवस्था रखी गई है ताकि यदि वे कोई गड़बड़ करें तो लाइसेंस की जमानत को ज्वट करने से ही उस गरज को पूरा कर लिया जाय। तो मेरा ऐसा खयाल है कि इसमें जो कुछ किया गया है वह मुनासिब है और इसमें कोई ऐसी बात नहीं है कि जिससे हम गवर्नमेंट को दोष दे सकें। मेरा ऐसा निश्चित मत है कि इस प्रकार का कानून जारी करना ही इस बात की दलील है कि हमारी गवर्नमेंट बहुत सतर्कता से काम कर रही है, वरना कोई कारण नहीं था कि इस प्रकार के कानून को बनाया जाता। और जब उसको प्रेक्टिस में, अमल में, लाने में कुछ त्रुटि पैदा हुई तभी उस त्रुटि का संशोधन करने के लिये इस विधेयक को हमारे सामने लाया गया, अधिनियम को हमारे सामने लाया गया। तो मैं समझता हूं कि इसमें जो कुछ भी कार्यवाही की गई है वह बहुत ही मुनासिब और जो तरमीम की गई है वह बहुत ही उपयुक्त है। आप देखें कि इसमें जो तरमीम हमारे सामने रखी गई है वह इन शब्दों में है :

“(a) after clause (i), the following clause shall be inserted, namely:—

“(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefor, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum

so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;”

तो मैं समझता हूं इसमें लाइसेंस को हासिल करने वालों के ऊपर अगर कोई किसी प्रकार की जिम्मेदारी डाली जाती है और वे उसकी खिलाफवर्जी करते हैं तो उनका जो डिपोजिट मनी है उसको ज्वट करने का अधिकार रहेगा।

एक खास बात इसके अन्दर यह भी रखी गई है कि इसके लिये एक आर्डर द्वारा एक अधिकारी भी मुकर्रर किया जायेगा। मैं समझता हूं, अभी चिनाई साहब ने जैसा ऐतराज किया उस बात की संभावना कुछ ज्यादा नहीं मालूम देती। मेरा तो ऐसा खयाल है कि जब गवर्नमेंट के समने किसी को जुडीसरी और एक्जीक्यूटिव पावर देने का सवाल आता है तो उस समय वह इस बात का जरूर खयाल रखती है कि दरअसल पावर किसी ऐसे अधिकारी को दी जाये कि जिससे उसका दुरुपयोग न हो सके, और बहुत से केसेज में, बहुत से हालात में हमने यह बिल्कुल अच्छी तरह से देखा है कि ऐसे अधिकार उन्हीं व्यक्तियों के हाथ में दिये गये हैं जो उसके लिये बिल्कुल क्वालिफाइड हैं। इस प्रकार की कोई संभावना हम देखते या इस प्रकार की कोई शंका देखते कि उन अधिकारों का कोई दुरुपयोग हो रहा है तो कोई बात भी थी, लेकिन पहले से ही ऐसी बात खयाल में लाना कोई मुनासिब नहीं। मैं ऐसा समझता हूं कि हमने और भी जो कायदे कानून इस प्रकार के बनाए हैं उनमें जहां ऐसे अधिकार दिये जाते हैं जो एक्जीक्यूटिव और जुडीसरी दोनों से ही सम्बन्ध रखते हैं वहां हमने देखा है कि ऐसे आदमी ही उनमें मुकर्रर किये जाते हैं, ऐसे व्यक्ति या अधिकारी ही मुकर्रर किये जाते हैं, जिनको कि दोनों प्रकार का अनुभव होता है—उन्हें जुडीसरी का भी अनुभव होता है और एक्जीक्यूटिव का भी अनुभव होता है। जब इस प्रकार के अधिकारी

मुकर्र करने की प्रथा है तब फिर इस प्रकार की कोई शका करने की गुजाइश नहीं होनी चाहिये ।

मे समझता हू कि यह अधिनियम जो हमारे सामने आया है, उसकी तरमीम के लिये जो विधेयक रखा गया है, वह निश्चय ही बहुत उपयोगी है और मेरा तो यह निश्चित मत है कि जो यह खयाल है कि इससे सक्ती होगी वह सही नहीं है, बल्कि मेरा तो ऐसा खयाल है कि इसमें अधिकाग्रियों को भी सहूलियत होगी और जो लाइसेंस लेने वाले हैं उनको भी सहूलियत होगी । सहूलियत इसलिये होगी कि वे विला वजह मुकदमेबाजी और दूसरी परेशानियों में बच जायेंगे और जल्दी एक्शन लेने में लाइसेंस की जो शरायत है उनकी तकमील और पाबन्दी करने में भी सुविधा होगी । मेरा ऐसा खयाल है कि इस विधेयक में जो कुछ भी तरमीम चाही गई है वह निहायत सुनायित्व है और मैं समझता हू कि जिस तरह में यह विधेयक हमारे सामने लाया गया है उसी तरीके पर हाउस इसे पास कर दे ।

SHRI P C SETHI (Madhya Pradesh) Sir, this amendment has been necessitated and has been envisaged keeping in view the problem of the wheat flour mills and the foodgrain dealers. But the Essential Commodities Act, 1955, defines in clause (2) various commodities and therefore, as far as the amendment is concerned, it is a fact that it would not only be limited to foodgrain dealers and wheat flour mills, but would include a wide range of commodities and therefore, when the Act is amended on the lines of this Bill, security deposit will have to be advanced or may be asked for from many dealers who are included in the list of clause (2). Clause (2) also empowers the Government to take any other commodity also into the list of essential commodities and therefore security deposit will have to be given by a very wide range of persons. This

amendment seeks a sort of *via media* as the hon Minister has said. He wants to impose this penalty of forfeiting the security deposit for minor and technical offences, because he feels that to prosecute the man for every minor and technical offence would mean causing a difficulty and a dislocation of the essential supplies. Therefore, he wants this power to deal with those merchants who are committing a sort of technical and minor offences, and by forfeiting the security the only punishment which is being given is a sort of fine. Therefore, I would suggest to the hon Minister that, instead of asking the merchants to deposit and then forfeiting the security deposit, the measure could have been amended this way that they could have been allowed to impose a fine, and a minimum or maximum fine could have been prescribed for minor and technical offences. In that case all the merchants, who are not committing these minor or technical offences, would not come under the necessity of depositing a certain amount of money, and thereby the amendment can be put in this way that the Government can take the power of imposing a monetary fine—prescribing certain minimum and maximum limits—on those merchants who are committing minor and technical offences. Therefore, I would request the hon Minister to consider this question in this view that all the merchants may not be asked to deposit the money, but Government may have the authority and delegate the power to the authorities concerned to impose the fines for the minor and technical offences, because that would serve the purpose.

With this view I support the amendment, because even the minor and technical offences should not go unpunished, and everybody must feel that the Government is vigilant on the essential commodities and therefore, as far as the measure of fine is concerned I would support it, but I would request the hon Minister to consider whether it is necessary to

ask all the mercahnts to deposit securities.

MR. DEPUTY CHAIRMAN: Mr. Bhargava.

SHRI M. P. BHARGAVA (Uttar Pradesh): I do not want to speak now; there is no time.

THE MINISTER OF FOOD AND AGRICULTURE (SHRI S. K. PATIL): Mr. Deputy Chairman, Sir, the speakers who have spoken on this particular Bill have seen in it more than it contains. What the Bill wants is a very simple thing. It is not really any change in the Essential Commodities Act of a very vital kind. It only means this that all the penal provisions that have been provided there are of two types, either the cancellation of the licence or the permit if the offence is proved, or of taking the man to a court of law to prosecute him and then the case going on for two months or three months or for whatever time the court takes for its completion. But here is a *via media* for small technical offences, namely, that if the offence is committed, then the licence fee or whatever is deposited that we ask for is either partly or wholly forfeited. Otherwise, they go scot-free.

Now, as far as my friend Mr. Bhupesh Gupta is concerned, I find he has conveniently left the House, Sir.

THE DEPUTY MINISTER OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): He is there.

SHRI S. K. PATIL: I am very glad he is here. I was rather amazed when he was talking something, and I thought we were in 1955 or 1956. I do not see all that now; I can quite understand the difficulties that he was narrating. There were difficulties, genuine difficulties at one time, but today they appear to be like the stories of Mahabharat, because nothing of that type really happens in West Bengal to which he can make reference just now. I am quite sure that under the Essential Commodities Act

several things were functioning, namely, there was State Trading, there were zones, there were controls and things of that description, and naturally all those functions arose. But this is a story of the past now, what the hon. Member is reciting, and not something which is actually happening in any part of this country. Luckily, Sir, as I have said, I would repeat that we seem to have turned the corner in this business, and the purpose for which this Act was devised is now slowly disappearing and disappearing, and I hope it will have completely disappeared after some time. It is necessary for some time, no doubt, but surely those things are not happening today. State Trading has gone in most of the places. So far as wheat is concerned, the Zone has gone. I hope it will never come back. So far as rice is concerned, I am really more anxious for the rice-eating people, because they are so nice that I do not want that they . . .

SHRI BHUPESH GUPTA: State Trading has been slain at most places.

SHRI S. K. PATIL: I hope it is gone and it will go. I have got nothing against it, but when it is not necessary, then surely we do not want to go in for it. But if unfortunately the seasons go wrong and something happens, then the provisions of this Act have got to be invoked—I have not the slightest compunction in doing so. What I am saying is this that when things are not happening, why should we expect that they are going to happen tomorrow and that therefore we have got to be ready with all these things? That is exactly not the atmosphere that we find in the country today. In West Bengal particularly, when some two years back or three years back the crops had failed for two consecutive years, it was really very fortunate so far as that province was concerned. But luckily today the position is quite different. I congratulate the hon. Member, Mr. Bhupesh Gupta, who comes from that province

that Bengal has shown such a wonderful performance this year that possibly nothing of this kind would be necessary this year. In those years, because they started all that business, not only the wholesalers but even the retailers and the smaller men, they all had to be brought under some kind of restrictions and that is why sometimes I quite agree with him that those things might have happened where those penal sections were not readily applied against all those who offended against the law. And therefore the trouble arose. But today nothing of that kind exists. Therefore, it is not necessary. On the contrary what happens is this. Under this Essential Commodities Act you cancel the licence of, say, a rice-mill or a flour-mill because an offence has been committed. If it is a grave offence and its licence is cancelled, then that is a different matter. But then the penalty is not on, say, the flour-mill, but the penalty is on the people who should be cared for; and sometimes when the rice-mill or flour-mill does not function for months together, or something does not function, it is the people, who are really the beneficiaries of those particular things, that suffer. They suffer more than anybody else. This has really arisen not so much because those who were offending against the law were getting scot-free but because we find that when we cancel their licence or drag them to a court of law, that particular amenity of the service that was available to the people disappears and therefore more trouble is caused because you cannot supplant the source by issuing a fresh licence to another, and other things have to be done, and rice-mills, for example, are not built in a day, and therefore this has been done.

There is another aspect also, Sir, that is to be taken into consideration, namely that it is not always that type of penal provision, that is, the cancellation of the permit or the licence, or taking the man to and prosecuting him in a court of law, where possibly a seven days' sentence

or one day's sentence may be passed against him, that would really stop all these things. Sometimes a cancellation of it is more important than even that because the man does not want to lose his money. Sometimes in other offences where there are small sentences, etc. a man rather prefers to sit in the comfortable jails, which are getting more and more comfortable in free India. Therefore, they do not mind going there. If there are some hon. Members in this House who are still labouring under that old conception that jail is a kind of deterrent and a man does not want to go there, they are very much mistaken. Now, there are some people who would not like to go to jail. But there are quite a few who would not mind going and sitting comfortably in jail. After all, it cannot carry a sentence of one year, two years or five years. Surely; therefore, this short sentence does not prove to be a deterrent in the way that the hon. Members are thinking. Therefore, if there is a small deposit, which provision has now been made, it would be better.

Hon. Members have read the provisions. Under section 3 they will find that there are ever so many subsections from (a) to (i) providing for so many things, and we have not provided the right which the Government wants to take now within a small orbit. Whatever it is, it will depend upon the quantum or the volume of work that you do. For instance, if there is a small retailer, then surely the deposit would not be very big but if it is a rice-mill the deposit might be big and the miller would not like to lose that money. He is very much afraid that if he commits any offence, immediately the provisions of the law would come into operation and he will have to lose that money. But if the system continues as it is today, that means we have got to cancel the licence thereby causing inconvenience and discontinuing the amenity which is so very necessary for the people. All these amenities are dislocated for

[Shri S K Patil]

some time until it is brought into action. Therefore, this provision has **been** brought in. There is no other intention of the Government that under the cloak of this particular thing something drastic is sought to be done. On the contrary, Sir, when even these are further extended restrictions would also disappear, so far as the Food Ministry is concerned—I am not talking of the Iron and Steel and Ministries of that type. For them it will exist, but so far as this Ministry is concerned, I wanted it to be inoperative, not because offences will be tolerated but the conditions will be created where the operation of the law will become absolutely unnecessary. That is really the kind of society towards which we should aim and not the society where more and more laws would be brought in.

SHRI BHUPESH GUPTA Is it the hon Food Minister's contention that when we have the Criminal Law (Amendment) Bill passed here, the Home Minister would not be very active and operative? He also says that crime should be less.

SHRI S K PATIL There is no relevancy between criminal offences and offences committed under this provision. This is a kind of disease. My hon friend surely does not want that the disease should be a permanent factor in a society. Therefore, if there are proper medicines and if as a result of administering those medicines all the causes for that disease disappear and ultimately the disease disappears, then surely we need not worry because the idea is that the disease has got to be really got under restraint.

My friend Mr Gurupada Swamy, said that this was just the occasion for the Government to give a review of the working of the Essential Commodities Act for the last five or six years. I think this is just the time when nothing of that type should be done because this is a simple measure while the hon Member really read into this Bill something which really Government do not propose. That is

not our intention. What we are doing is to remove this kind of lacuna that existed there and because of the absence of it sometimes we could not take any action. Therefore, we are substituting that. And even if it had not come, nothing was lost. Since it has come and has been gone through and the recommendations have come, we are trying to cover it.

Sir, if there was a proposal to bring in amendments to the Essential Commodities Act as a result of its performance, I could have given the summary of what had happened. I do not want that sorry chapter to continue in this country for a long time. Luckily for us, thanks to Providence, thanks to the co-operation of the farmers and thanks to the co-operation of the hon Members who supported me in all these things during the last twenty months the position has been created in this country where all these penal provisions are absolutely unnecessary. But if they are got for some time, it is because we want the position in other respects also, like rice etc., to improve. It has very steadily improved indeed and that is exactly the reason why this amendment is sought to be done. There is nothing wrong about it.

My friend, Mr Chinai, was rather afraid that we might have various kinds of prohibitive deposits which would act as a kind of restrictive measure. It is not sought to be done indeed. I am told that a rice-mill has got to pay a small deposit of Rs 200. That shows how very small the amount is. If it is a retailer, surely it will be still smaller. It is not intended that everybody has to have a licence. We shall really have it used sparingly, only when it is absolutely necessary when the man goes out of business thereby causing the dislocation of that amenity. In such cases also it is necessary. Therefore it is done.

Sir, after this explanation there should not be any thought in the

minds of hon Members that something sinister or something very drastic is sought to be done. Nothing of this kind, and let us hope that in the matter of even these restrictions, which become sometimes necessary, a time will come when the cause for them will completely disappear. With these words I commend this Bill to the acceptance of the House.

MR DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Essential Commodities Act, 1955, as passed by the Lok Sabha, be taken into consideration"

The motion was adopted.

MR DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill

Clause 2 was added to the Bill

Clause 1, the Enacting Formula and the Title were added to the Bill

SHRI S K PATIL: Sir, I move

"That the Bill be passed"

The question was proposed.

SHRI H P SAKSENA: Sir, I would like the hon Minister to tell us when the prices of essential commodities of food are going to fall

SHRI S K PATIL: I say this is not a question that arises out of it. However, I do not want them to fall.

SHRI M. P BHARGAVA: Mr Deputy Chairman, . . .

SHRI BHUPESH GUPTA: No, no. The answer has been given

MR DEPUTY CHAIRMAN: Yes

SHRI M. P BHARGAVA: He objects to my speaking

SHRI BHUPESH GUPTA: He cannot speak now.

SHRI M P BHARGAVA: He has not replied Sir, there was a question asked

SHRI BHUPESH GUPTA: No, Sir. He cannot speak now. You understand it

MR DEPUTY CHAIRMAN: He replied to his question.

SHRI BHUPESH GUPTA: He cannot speak after his reply

MR DEPUTY CHAIRMAN: All right

The question is:

"That the Bill be passed."

The motion was adopted.

SHRI BHUPESH GUPTA: There is still time. The House cannot adjourn. The next item on the list of business is the Criminal Law (Amendment) Bill, 1961. There is still one minute. The Minister is not here. I would request you to see to it that the Bill is not moved this Session; it goes to the next Session. The Minister should have been here to move the Bill. He is not present in the House. Now, on a point of order, this is a serious thing. It is a bad precedent. There is no other business on the list of business except the Criminal Law (Amendment) Bill, 1961 [Shri M H. Samuel stands up in his seat.] You do not get up. I want your ruling Sir. My point of order is that the Bill that was there on the list of business to be considered having been not moved this Session, at least today, they have to ask for permission.

SHRI S. K. PATIL: Mr. Deputy Chairman . . .

SHRI BHUPESH GUPTA: It is not the parliamentary practice . . .

MR DEPUTY CHAIRMAN: If you had not got up the difficulty would not have been there

SHRI BHUPESH GUPTA: I have risen on a point of order. You give your ruling. Now even if you want it cannot be taken up

MR DEPUTY CHAIRMAN: There is no point of order. You should have left it to me. Now it is too late. It is already one o'clock.

SHRI BHUPESH GUPTA: My point of order related to the time when it was one minute before one o'clock. Your point does not detract from the validity of the point of order either in point of time or in regard to the substance of it. Therefore you should tell us whether my point of order, which I raised at one minute to one o'clock, is admissible.

MR. DEPUTY CHAIRMAN: It is now one o'clock. If you had simply sat quietly . . .

SHRI BHUPESH GUPTA: I know what would have happened I submit this matter to you. You consider it and give me your ruling after lunch.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, Mr. Deputy Chairman in the Chair.

SHRI BHUPESH GUPTA: Sir, regarding that point of order of mine, now I think you have considered it. The position is like this. I think you have given a little thought to it because it is rather extraordinary but important. The business ended at two minutes to one.

AN HON. MEMBER: One minute

SHRI BHUPESH GUPTA: Do not bargain for sixty seconds. All right, you have sixty seconds.

SHRI M. P. BHARGAVA: It was hardly one minute.

SHRI BHUPESH GUPTA: It is something like talking about an illegitimate child and saying that it is only a small child. Do not talk like that. Say one minute—are you satisfied? Now, the business ended. The next item on the agenda was the Criminal Law (Amendment) Bill, 1961 to be moved by Shri Datar. Like the

absentee landlord, Mr. Datar was absent I found his difficulty.

MR. DEPUTY CHAIRMAN: You got up immediately.

SHRI BHUPESH GUPTA: To save you from embarrassment.

MR. DEPUTY CHAIRMAN: On the other hand you spoiled your game.

SHRI BHUPESH GUPTA: I know. You could have helped me there. He was not there. Normally, you could not have called anybody and you could have called only Mr. Datar.

MR. DEPUTY CHAIRMAN: You should have left it to me.

SHRI BHUPESH GUPTA: Therefore, the substance of it is this. We go in a democracy, by the substance. The substance of it is this that the Government Minister in charge of the Bill namely Shri Datar in this case, was absent when his turn came to be called to move the Bill.

SHRI M. P. BHARGAVA: Mr. Deputy Chairman, on a point of order on his point of order. Where does the point of order arise when you had not called the next item?

SHRI BHUPESH GUPTA: It does arise because here is the business in the agenda. I know it. Constructively you were calling his attention.

MR. DEPUTY CHAIRMAN: Not till I called him actually

SHRI BHUPESH GUPTA: The words you did not utter but you were looking at that side, even though he was not present. You could not have called anybody having seen it. If you were looking at this side, perhaps you would have called but by looking at that side, you, as any reasonable man, could not have possibly called anybody. Nobody was here. The result was that it went by default . . .

SHRI MAHESWAR NAIK: (Orissa): Mr. Patil was here and he could have moved

SHRI BHUPESH GUPTA: I doubt. I was here, the Secretary was here and perhaps Shrimati Yashoda Reddy was here but the person concerned was not here. Therefore, I think my submission is this that this Bill has lapsed as far as this Session is concerned and I think, with good grace, the Home Minister can take it up in the next Session.

SHRI M. P. BHARGAVA: May we know from the hon. Member, under what rule?

MR. DEPUTY CHAIRMAN: Do you want a ruling?

SHRI BHUPESH GUPTA: You seem to have made up your mind. Therefore, if you give a ruling against me, I think in public interest and in the interest of Parliament, you will administer a severe rebuke to the Minister.

SHRI M. P. BHARGAVA: Where is the occasion?

MR. DEPUTY CHAIRMAN: There cannot be a point of order in a vacuum. Before I called upon the Home Minister you took all the time and the time ran and it become one o'clock.

SHRI BHUPESH GUPTA: How could you have called him?

MR. DEPUTY CHAIRMAN: Perhaps Mr. Patil would have moved it, I do not know, but before I could call the Home Minister, you got up.

SHRI BHUPESH GUPTA: You have raised an important point.

MR. DEPUTY CHAIRMAN: You should have left it to me.

SHRI BHUPESH GUPTA: Perhaps, I agree, Mr. Patil would have moved the Bill but did you have in your possession an authorisation letter from Shri Lal Bahadur or Mr. Datar?

MR. DEPUTY CHAIRMAN: It is hypothetical. It does not arise now. Mr. Datar.

SHRI BHUPESH GUPTA: I say that you did not have any authorisation. Therefore, you could not have thought that Mr. Patil could have moved it.

MR. DEPUTY CHAIRMAN: You overshot your mark.

THE CRIMINAL LAW (AMENDMENT) BILL, 1961

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS

(SHRI B. N. DATAR): Sir, I move:

"That the Bill to supplement the criminal law, as passed by the Lok Sabha, be taken into consideration."

Sir, I would not deal with the point of order which you have already overruled but I cannot help making one observation before I deal with the Bill that my hon. friend's uncalled for impatience to get this Bill postponed is a pointer in the direction of the need of this Bill itself.

SHRI BHUPESH GUPTA (West Bengal): Therefore you were absent?

SHRI B. N. DATAR: It is entirely wrong on the part of the hon. Member to say that. So far as this Bill is concerned, this had to be brought forward on account of certain developments, as you are aware, during the last 2 years or so and on a number of occasions, when the Home Ministry's Demands were under consideration or questions relating to the Home Ministry were under debate either in this House or the other, a number of hon. Members made the suggestion that something ought to be done immediately to stop the mischief that was being done, especially in the border areas of India. Now, I need not go into the various happenings that took place during the last 2 or 3 years, but suffice it for me to say that apart from what others have done, apart from what foreigners have done, apart from the foreign periodicals that carried on an insidious propaganda, there were unfortunately in India certain persons who did not act as they ought to have, because this was a question,