

Then also, protection to Indian industries should now be framed more and more on tariff inquiries rather than on the dubious and improper method of haphazard import control.

With these few words, I hope that we shall have a more stable and more progressive import policy. From the changes that have already been made by the Government of India, it appears—we are under the impression—that Government are now realising that industrial inefficiency hinders the progress of our plan. Now, at the cost of inefficiency, Government do not want to give protection to those industries, and that is a good check that the Government are imposing on those industries which are producing all along on inefficient lines.

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

We have every faith in the approach of our hon. Minister who has been

the architect of this liberalised import policy, and I think the hon. Minister will take the country in two Five Year Plans to a more prosperous goal. With these words, Sir, as I have no time because voting is going to take place, I beg your leave to conclude.

CONSTITUTION (THIRD AMENDMENT) BILL—*concl'd.*

Mr. Deputy-Speaker: I shall now place the motion for consideration of the Constitution (Third Amendment) Bill, 1954 to the vote of the House.

The question is:

“That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration.”

The Lok Sabha divided: Ayes 283; Noes 33.

Division No. 4]

Abdullahai, Mulla
Achal Singh, Seth
Achint Ram, Lala
Achuthan, Shri
Agarwal, Shri H. L.
Agarwal, Shri S. N.
Agarwal, Shri M. L.
Alagesan, Shri
Altekar, Shri
Amrit Kaur, Rajkumari
Ansari, Dr. ^
Asthana, Shri
Azad, Maulana
Azad, Shri Bhagwat Jha
Balasubramaniam, Shri
Balmiki, Shri
Bansal, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Bhakt Darshan, Shri
Bhandari, Shri
Bharati, Shri G. S.
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Dass
Bhartiya, Shri S. R.
Bhatkar, Shri
Bhatt, Shri C.
Bhawanji, Shri
Bheekha Bhai, Shri
411 L.S.D.

AYES

Bhonsle, Shri J. K.
Bidari, Shri
Birbal Singh, Shri
Borkar, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Chaliha, Shri
Chanda, Shri Anil K.
Chandak, Shri
Charak, Th. Lakshman Singh
Chaturvedi, Shri
Chaudhary, Shri G. L.
Chavda, Shri
Chettiar, Shri Nagappa.
Chettiar, Shri T. S. A.
Chinaria, Shri
Choudhuri, Shri M. Shaffee
Dabhi, Shri
Das, Dr. M. M.
Das, Shri B.
Das, Shri B. K.
Das, Shri K. K.
Das, Shri N. T.
Das, Shri Ram Dhani
Das, Shri S. N.
Datar, Shri
Deb, Shri S. C.
Desai, Shri K. K.
Desai, Shri K. N.
Deshmukh, Dr. F. S.
Deshpande, Shri G. M.

[2-30 P.M.]

Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Digambar Singh, Shri
Dube, Shri Mulchand
Dubey, Shri R. G.
Dwivedi, Shri D. P.
Dwivedi, Shri M. L.
Echcharan, Shri I.
Ebenezar, Dr.
Fotedar, Pandit.
Gadgil, Shri
Gandhi, Shri Feroze
Gandhi, Shri M. M.
Gandhi, Shri V. B.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Garg, Shri R. P.
Gautam, Shri C. D.
Ghose, Shri S. M.
Ghulam Qader, Shri
Gopi Ram, Shri
Gounder, Shri K. P.
Gounder, Shri K. S.
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Badshah
Hari Mohan, Dr.
Hem Raj, Shri
Hembrom, Shri
Ibrahim, Shri

[Mr. Deputy-Speaker]

- Iyyunni, Shri C
 Jain, Shri A. P.
 Jain, Shri N. S.
 Jajware, Shri
 Jangde, Shri
 Jayashri, Shrimati
 Jena, Shri Niranjan
 Jethan, Shri
 Joshi, Shri Jethalal
 Joshi, Shri Krishnacharya
 Joshi, Shri Lladhar
 Joshi, Shri N. L.
 Joshi, Shrimati Subhadra
 Jwala Prasad, Shri
 Kajrolkar, Shri
 Kakkan, Shri
 Kale, Shrimati, A.
 Karmarkar, Shri
 Karni Singhji, Shri
 Kasliwal, Shri
 Katham, Shri
 Katju, Dr.
 Kazmi, Shri
 Keshavaiengar, Shri
 Keskar, Dr.
 Khedkar, Shri G. B.
 Khongmen, Shrimati
 Kidwai, Shri
 Kirolikar, Shri
 Kottukappally, Shri
 Krishna Chandra, Shri
 Krishnamachari, Shri T. T.
 Kureel, Shri B. N.
 Kureel, Shri P. L.
 Lakshmayya, Shri
 Lal, Shri R. S.
 Lal Singh, Sardar
 Lallanji, Shri
 Laskar, Shri
 Lingam, Shri N. M.
 Lotan Ram, Shri
 Madiah Gowda, Shri
 Mahodaya, Shri
 Majhi, Shri R. C.
 Majithia, Sardar
 Malaviya, Shri K. D.
 Malliah, Shri U. S.
 Malvia, Shri B. N.
 Malviya, Pandit C. N.
 Malviya, Shri Motilal
 Mascarene, Kumari Annie
 Masoudi, Maulana
 Masuriya Din, Shri
 Matthen, Shri
 Maydeo, Shrimati
 Mehta, Shri Baiwant Sinha
 Mehta, Shri B. G.
 Minimata, Shrimati
 Mishra, Shri S. N.
 Mishra, Shri Bibhuti
 Mishra, Shri L. N.
 Mishra, Shri M. P.
 Misra, Pandit Lingara
 Misra, Shri B. N.
 Misra, Shri R. D.
 Misra, Shri S. P.
 Mohd Akbar, Sofi
 Morarka, Shri
 More, Shri K. L.
 Mudaliar, Shri C. R.
 Musafir, Giani G. S.
 Muthukrishnan, Shri
 Nair, Shri C. K.
 Nanda, Shri
 Narasimhan, Shri C. R.
 Natawadkar, Shri
 Nathwani, Shri N. P.
 Nehru, Shri Jawaharlal
 Nijalingappa, Shri
 Palchoudhury, Shrimati Ila
 Pande, Shri C. D.
 Pannalal, Shri
 Pant, Shri D. D.
 Paragi Lal, Ch.
 Parekh, Dr. J. N.
 Parikh, Shri S. G.
 Parmar, Shri R. B.
 Pataskar, Shri
 Patil, Shri B. K.
 Patel, Shri Rajeshwar
 Patel, Shrimati Maniben
 Pathrikar, Dr.
 Patil, Shri Kanavade
 Patil, Shri Shankargauda
 Pawar, Shri V. P.
 Pillai, Shri Thanu
 Prabhakar, Shri Naval
 Prasad, Shri H. S.
 Radha Raman, Shri
 Raghbir Singh, Ch.
 Raghunath Singh, Shri
 Raghuramala, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Ram Dass, Shri
 Ram Saran, Shri
 Ram Subhag Singh, Dr.
 Ramanand Shastri, Swami
 Ramaseshaiah, Shri
 Ramaswamy, Shri S. V.
 Ranbir Singh, Ch.
 Rane, Shri
 Ranjit Singh, Shri
 Rao, Diwan Raghavendra
 Rao, Shri Seshagiri
 Reddy, Shri Viawanatha
 Roy, Shri Bishwa Nath
 Sahaya, Shri Syamnandan
 Sahu, Shri Bhagbat
 Sahu, Shri Rameshwar
 Saigal, Sardar A. S.
 Saksena, Shri Mohanlal
 Sanganna, Shri
 Sankarapandian, Shri
 Satish Chandra, Shri
 Satyawadi, Dr.
 Sen, Shrimati Sushama
 Sewal, Shri A. R.
 Shah, Shri C. C.
 Shah, Shri R. N.
 Sharma, Pandit Balkrishna
 Sharma, Pandit K. C.
 Sharma, Shri D. C.
 Sharma, Shri K. R.
 Sharma, Shri R. C.
 Shobha Ram, Shri
 Shukla, Pandit B.
 Siddananjappa, Shri
 Singh, Shri D. N.
 Singh, Shri Babunath
 Singh, Shri L. Jogeswar
 Singh, Shri M. N.
 Singh, Shri T. N.
 Singhal, Shri S. C.
 Sinha, Dr. S. N.
 Sinha, Shri A. P.
 Sinha, Shri Anrudha
 Sinha, Shri G. P.
 Sinha, Shri Jhulan
 Sinha, Shri K. P.
 Sinha, Shri Nageshwar Prasad
 Sinha, Shri Satya Narayan
 Sinha, Shri Satyendra Narayan
 Sinha, Shrimati Tarkeshwari
 Snatak, Shri
 Sodhia, Shri K. C.
 Somana, Shri N.
 Somani, Shri G. D.
 Subrahmanyam, Shri T.
 Sunder Lal, Shri
 Suriya Prasad, Shri
 Syed Mahmud, Dr.
 Tandon, Shri
 Tek Chand, Shri
 Telikar, Shri
 Tewari, Sardar R. B. S.
 Thimmaiah, Shri
 Thomas, Shri A. M.
 Tiwary, Shri V. N.
 Tiwari, Pandit B. L.
 Tiwari, Shri R. S.
 Tiwary, Pandit D. N.
 Tripathi, Shri H. V.
 Tripathi, Shri K. P.
 Tripathi, Shri V. D.
 Ulkey, Shri
 Upadhyay, Pandit Munishwar Datt
 Upadhyay, Shri Shiva Dayal
 Upadhyay, Shri S. D.
 Vaishnav, Shri H. G.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Varma, Shri B. R.
 Verma, Shri M. L.
 Velayudhan, Shri
 Venkataraman, Shri

Vidyalankar, Shri A. N.
Vishwanath Prasad, Shri

Vyas, Shri Radheial
Wilson, Shri J. N.

Zaidi, Col.

NOES

Amjad Ali, Shri
Chatterjee, Shri Tushar
Chatterjee, Shri N. C.
Chaudhuri, Shri T. K.
Chowdhury, Shri N. B.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deo, Shri R. N. S.
Deshpande, Shri V. G.
Gadilingana Gowd, Shri
Gidwani, Shri

Gupta, Shri Sadhan
Gurupadaswamy, Shri M. S.
Krishnaswami, Dr.
Mehta, Shri Asoka
Misir, Shri V.
Mukerjee, Shri H. N.
Mushar, Shri
Nambiar, Shri
Nayar, Shri V. P.
Pandey, Dr. Natabar
Raghavachari, Shri

Ramasami, Shri M. D.
Ramnarayan Singh, Baba
Randaman Singh, Shri.
Rao, Dr. Rama
Rao, Shri Gopala
Rao, Shri T. B. Vittal
Reddi, Shri Madhac
Singh, Shri R. N.
Swami, Shri Sivamurthi
Verma, Shri Ramji
Waghmare, Shri

The motion was adopted.

Mr. Deputy-Speaker: The motion is carried by a majority of the total membership of the House and by a majority of not less than two-third of the members present and voting.

Clause 2.—(Amendment of the Seventh Schedule)

Dr. Krishnaswami (Kancheepuram): I beg to move:

(i) In page 1, for clause 2, substitute:

"2. *Amendment of Article 369.*—

(1) In Article 369 of the Constitution for the words 'five years' the words 'ten years' be substituted.

(2) For clause (a) of Article 369, the following clause be substituted, namely:—

'(a) trade and commerce in, and the production, supply and distribution of foodstuffs (including edible oilseeds and oils), cattle fodder (including oilcakes and other concentrates), raw cotton (whether ginned or unginned and cotton seed) and raw jute.'

(ii) In page 1, for clause 2, substitute:

"2. *Amendment of Article 369.*— In Article 369 of the Constitution, for the words 'five years' the words 'ten years' shall be substituted."

(iii) In page 1, for clause 2, substitute:

"2. *Amendment of the Seventh Schedule.*—In the Seventh Schedule to the Constitution, to entry 33 of List III, the following proviso shall

be added, namely:—

'Provided that up to the 25th of January, 1960 this entry shall read as follows:—

"33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry where its control by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(b) foodstuffs, including edible oilseeds and oils;

(c) cattle fodder, including oilcakes and other concentrates;

(d) raw cotton, whether ginned or unginned, and cotton seed; and

(e) raw jute.'"

Shri Raghavachari: I beg to move:

In page 1, line 8, omit "the production".

Shri Sivamurthi Swami (Kushtagl): I beg to move:

In page 1, omit lines 14 to 18.

Shri N. B. Chowdhury (Ghatal): I beg to move:

(i) In page 1, line 19, add at the end:

"provided the growers are assured of the minimum economic price."

(ii) In page 1, after line 19, add

"Provided that all laws made by the Parliament in respect of items (b), (c), (d) and (e) herein shall

[Shri N. B. Chowdhury]
not remain in force for a period exceeding two years unless further extension and continuance are recommended by the resolution passed by the Legislatures of the majority of Part A and Part B States and upon such recommendation the law shall remain in force for such further period as recommended therein."

Dr. Krishnaswami: I beg to move:

In page 1, line 5, (i) before "In the Seventh Schedule" insert "(1)"; and (ii) after line 19, add:

"(2) This amendment shall have effect for a period of five years from the date of commencement of this Act."

Mr. Deputy-Speaker: Amendments moved:

(1) In page 1, for clause 2, substitute:

"2. Amendment of Article 369.—

(1) In Article 369 of the Constitution for the words "five years" the words "ten years" be substituted.

(2) For clause (a) of Article 369, the following clause be substituted, namely:—

"(a) trade and commerce in, and the production, supply and distribution of foodstuffs (including edible oilseeds and oils), cattle fodder (including oilcakes and other concentrates), raw cotton (whether ginned or unginned and cotton seed) and raw jute."

(2) In page 1, for clause 2, substitute:

"2. Amendment of Article 369.—

In Article 369 of the Constitution, for the words 'five years' the words 'ten years' shall be substituted."

(3) In page 1, for clause 2, substitute:

"2. Amendment of the Seventh Schedule.—In the Seventh Schedule to the Constitution, to entry 33 of List III, the following proviso shall be added, namely:—

'Provided that up to the 25th of January, 1960 this entry shall read as follows:—

"33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry where its control by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(b) foodstuffs, including edible oilseeds and oils;

(c) cattle fodder, including oilcakes and other concentrates;

(d) raw cotton, whether ginned or unginned, and cotton seed; and

(e) raw jute."'"

(4) In page 1, line 8, omit "the production".

(5) In page 1, omit lines 14 to 18.

(6) In page 1, line 19, add at the end:

"provided the growers are assured of the minimum economic price".

(7) In page 1, after line 19, add:

"Provided that all laws made by the Parliament in respect of items (b), (c), (d) and (e) herein shall not remain in force for a period exceeding two years unless further extension and continuance are recommended by the resolution passed by the Legislatures of the majority of Part A and Part B States and upon such recommendation the law shall remain in force for such further period as recommended therein."

(8) In page 1, line 5, (i) before "In the Seventh Schedule" insert "(1)"; and (ii) after line 19, add:

"(2) This amendment shall have effect for a period of five years from the date of commencement of this Act."

[Mr. Deputy-Speaker]

Discussion will proceed both on the amendments and also on the clause.

Shri N. C. Chatterjee (Hooghly): I am asking this House seriously to consider whether it is proper to confer permanent power of legislation in favour of the Parliament. I was amazed when one of the hon. Members from the opposite benches said that we were paying scant respect to the wisdom of the Constitution-makers. I maintain we do nothing of that kind. As a matter of fact those who are suggesting today that the power should be permanently taken are not paying adequate respect to the corporate wisdom of the makers of the Constitution. Under entry 33 of List III, there are certain subjects given in the Concurrent List. The scheme of our Constitution is that under article 245 and so on, there is a careful distribution of powers and in that distribution of powers we have conferred certain exclusive legislative competence to the State Legislatures. We have also added that this Parliament should not trespass on that exclusive legislative ambit of the State Legislatures. Under that exclusive legislative list, that is List II, the Constitution-makers had clearly provided that certain subjects should not be trespassed upon by the Union Parliament and they had also said that only to the extent of the power exercised under entry 33 in the Concurrent List, that power can be interfered with.

Entry 33 of List III says "Trade and commerce in, and the production, supply and distribution of, the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest." In order to make the distribution of powers effective and yet to maintain Union control for some period, the Constituent Assembly said that during the transition period, Parliament should have power to legislate over certain specified commodities—essential commodities like cotton and woollen textiles, paper, coal, iron,

steel and certain other things. I say that the onus is very heavy on those who want to interfere with that article, that is, article 369, and say that that power should be permanently appropriated by this Parliament. The burden of proof is on them to make out a strong case as to why that period of transition should be extended. Let us look at that article. That article is, as you know, in Part XXI—Temporary and Transitional Provisions and it says—

"Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles...."

Our Constitution-makers knew exactly what was the position, knew also that planning was coming ahead, knew also the necessities for Central planning and were fully cognizant of the position. They had in their corporate wisdom said that "We shall give this Parliament power of legislation in respect of these subjects but it shall be a temporary power during the transitional period and shall be limited to a period of five years." What justification is there and what grounds have been put forward to make that power permanent? If you say that the transitional period was a short one and experience has shown that there should be an extension of that period, we maintain that you would be making a rational and objective approach if you are asking the States, the Parliament and the country to appreciate the position. If the Government really needs that power to be extended for another period then confine it for a total period of ten years and stop there.

You have not made out any case. I maintain that no argument has really been put forward to show that this power should be permanently extended so as to make Parliament practically the competent authority to legislate over this field. The argument of planning was there in 1948, 1949, and 1950 when the Constitution was framed. The argument in respect of foodstuffs was there and we had the famine and scarcity. But we are assured by competent authority that the position in respect of food has altered for the better. If it has altered for the better, there is no justification in respect of foodstuffs for extending this power indefinitely. I maintain that there is absolutely no justification and no grounds have been put forward for this indefinite extension and the burden of proof is on those who want to tamper with the basic principle of the Constitution. The basic principle is this, namely, that it should be in the transitional period and should remain as a temporary provision. It was made a temporary provision for better control of production, supply and distribution of certain articles during a transitional period of five years and Parliament has been given concurrent power of legislation as regards these matters specified in clauses (a) and (b) of article 369.

The present article affects a number of entries in the State List, that is, the exclusive State List; in relation to the commodities specified in clause (a), entries 26, 27, 64, 65 and 66 of List II are being interfered with. Will it be right to say that we shall give the States autonomy, at the same time practically taking away vital power from the States? I was really sorry when I heard that the hon. Minister had said something about our remarks in the minute of dissent with regard to the 'occupied field'. I am sorry that the hon. Minister has rushed into a field where constitutional lawyers fear to tread. You know that our Constitution, to some extent, has been modelled on the Canadian Constitution. I am reading from the latest

authority—Laski's *Canadian Constitution Law*—and the position is perfectly clear:

"if paramountcy means only that where, in the view of the courts, valid provincial legislation and valid Dominion legislation cannot stand together, the latter must prevail; or, regarded from another standpoint, provincial legislation which would otherwise be valid is precluded where the Dominion has 'occupied the field'."

The position is that if Parliament occupies this field, concurrent field, then the State legislation cannot at all operate.....

Shri A. M. Thomas (Ernakulam): Only to the extent of repugnancy.

Shri N. C. Chatterjee: Certainly to the extent of repugnancy and it cannot be otherwise, because if there is no repugnancy, both the laws can operate.

3 P.M.

If you actually exercise your legislative power as Parliament in respect of certain items put down in the Concurrent List, then automatically the State legislature is deprived of its power or even if there is already any existing provincial legislation operating in that area, then that would be inoperative and it would be kept in abeyance. It will become invalid and it will not at all be subsisting as a law. It has already been pointed out that although the Dominion Parliament has no authority conferred upon it to repeal any provincial statute, but still, if there is any conflict between the Dominion legislation and State legislation, then the Dominion legislation shall prevail.

There is no use making any comment about it. Section 6 is perfectly clear and it says that it shall be void to the extent of repugnancy. Article 254 reads:

"If any provision of a law made by the Legislature of a State is repugnant to any provision of a

[Shri N. C. Chatterjee:]

law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

Therefore, our article 254 makes it perfectly clear that in case of any conflict between Union law and the State law, the State legislation must be void. It will be completely inoperative and it will not be subsisting.

What I am pointing out is that this legislation is not good nor desirable. The Concurrent List does not mean a contingent list; concurrent power does not mean contingent power. They are taking the power; they are themselves saying that it is vital and they want it in the interests of the country; they think that Parliament should have the power for the purpose of enacting legislation. You are wanting power for the purpose of exercising the power and immediately you exercise the power, the Parliament legislates on that field and that law operates in that field, immediately *pro tanto* the State legislation will be inoperative and the ambit of State authority is restricted. Is there any justification for saying today that we shall make a radical departure from the Constitution-makers. They have deliberately conferred powers on the State legislatures and given them exclusive power and said that Parliament, although it is sovereign in many respects, will have no power or authority and no competence to legislate in respect of those matters. But now you are really saying although that power is confined up to 25th January 1955, we shall remove these words 'before up to 25th January 1955' "We

shall arrogate to ourselves completely that power." I am submitting that you will be deluding the public and you will be deluding the country by saying: I am putting it in the Concurrent List and therefore, I am sharing the power. This theory of sharing power is absolutely illusory. There is no question of sharing power or there can be no question of really participating both in this field or joint power for both, if you legislate automatically the other State legislatures become *functus officio*; they cannot legislate in that field. Therefore, there is no question of sharing power. On the other hand, we had urged: have faith in the States; give them also a chance. If you honestly believe that the interests of India demands that there should be an overall Central control in respect of certain commodities for a length of time, have the power by all means. It is not that we are taking an irrational view or merely making an academic approach to the question. I am charging the sponsors of this Bill because they say that we should deprive the States of this power permanently and perpetually and put it in the Concurrent List for the purpose of exercising that power.

[MR. SPEAKER *in the Chair*]

You know that the Concurrent List gives you certain powers. These powers have been exercised when under article 369 the Constitution gave you the power, you had exercised that power effectively and you have practically occupied the field. You have covered the field and you have left nothing uncovered the field. Therefore, when you take power and you say we want to exercise that power, that means nothing will be left for the States. Is it right to do so? Is it proper to do so? Is it necessary and essential; is it in the interests of the nation to take away those powers from the States? What will be left to the States? You can point out: there are these powers; there is the burial ground, cremation ground; and also prisoners detained under the Preventive Detention Act is there and so

on and so forth. I am pointing out that it is not right to treat a Constitution in that spirit of levity. I am charging that those who are wanting to make this radical departure, this fundamental change in the Constitution, are treating this Constitution as if it is a Cattle Trespass Act, as if it is Dr. Katju's Preventive Detention Act which ought to be amended every year. You bring an annual amending Bill of this Constitution; you treat this as an annual feature of your parliamentary enterprise. That is not the proper approach.

What we are saying is this. The Constitution-makers have deliberately and consciously given you the power for five years in respect of certain commodities and they have put it in the Concurrent List. Thereafter the State list and State Legislation will operate and the State legislatures will function fully. I am saying that you should not enlarge the ambit of that Concurrent List so as to arrogate this power. It is this concentration of power which is not desirable and that leads to totalitarian tendency. I do not want any Parliament, any Government in this country, especially the Central Government, to have totalitarian power which will really pulverise the State effectively.

Look at the psychological effect. You cannot carry all the States with you. All the States have not supported; some are opposed to it. It is desirable to take the States with you. Some State Governments have said: we still want to consider the matter. Some State Governments have asked: why are you doing it; we shall cooperate fully with you if you lay down a policy. Is it not a way out?.....

An Hon. Member: What has your State done?

Shri N. C. Chatterjee: I am speaking as a citizen of the Indian Republic and I am not taking a party view or a parochial or a provincial view. I am not speaking as a Bengali or a Calcutta citizen or a representative of the district of Hooghly or a man of Chandernagore. I am now talking as

an Indian, not even as a Hindu but as an Indian and as a citizen of the Indian Republic and I am pointing out that what you are doing is really trampling under your feet the rights of the State legislatures because you think you have a temporary majority. You want to do something which will knock out the State autonomy. You are creating altogether an undesirable psychological effect on the State Governments. What will be left to them? Very small.....

Shri Kidwai: They are happy.

Shri N. C. Chatterjee: They will be most unhappy after you pass this kind of law. Even today you have not got the majority of the States with you. I may really ask you: who will profit by putting this in the Concurrent List? It is not because you feel that it is necessary; nor because you feel that it is desirable; nor even because you are convinced that national interests demand it but because you temporarily happen to have a two-thirds majority and so you think it is much better to change the Constitution in the present regime so that this monopoly of power can continue. But this will recoil on you. This may act as a boomerang. It is not desirable to arrogate power in this way. I am submitting that the States are not really happy. You have not been able to get perfect co-ordination among the States by exercising the powers that you have. It will not be desirable to have this power permanently and to say that "I will exercise this power for all times to come." Remember, this power is being taken as recommended by this Committee—the Commodity Controls Committee—which happens to be appointed by the hon. Minister. That report has made a wonderful recommendation; it went to the length of suggesting that entries 26 and 27 in list 2—that is, the State list—should be permanently removed to list 3—that is, the Concurrent List. We have to point out that that among these hon. gentlemen—practically all of them—are Deputy Secretaries or Joint Secretaries or prospective Deputy Secretaries and even when one gen-

[Shri N. C. Chatterjee]

tleman went away to England an Economic Adviser of the Ministry of Food, was appointed in his place—there was not a single representative of the State Government. This is unfair. We point out that you have deliberately packed the Committee in such a way that a natural bias will be there in favour of the concentration of power, in favour of the Centre. In their corporate wisdom the Deputy Secretaries said that Entries 26 and 27 of the State List should be transferred to the Concurrent List, and transferred permanently. That was too much. With great respect, it was an absurd recommendation, too ridiculous to be accepted by anybody, and even this Government did not think it fit to accept it, and therefore they are coming forward and saying that a new entry like the proposed item 83 should be acceptable so as to practically incorporate all these in the Concurrent List.

All that I am saying is: give us the grounds, real, cogent, solid grounds to show that you want this power for maintaining overall Central control in respect of certain commodities.

And for how long? For heaven's sake tell us for how long. We are talking of planning. But you will not have a Planning Commission indefinitely going. The first Five Year Plan is going on. The second Five Year Plan has started. If you cannot do planning in ten years, it is no good having a Planning Commission for years, period after period, decade after decade. Take power for ten years. Use it wisely and in a sagacious manner and see what happens. At the end of ten years the face of the country would have changed and then we shall know how the States stand, and the States will be really in a position to judge as to how these things should be developed. We are also very anxious that the State economy should also progressively develop and we think it is vital that the States should be given substantial legislative power to build up their economy. Only pressure from the top will not really help them to progress in a national manner. There-

fore it is much better to have willingness, co-ordination, co-operation rather than this monopolistic, totalitarian, dictatorial approach to this problem.

I am commending my amendment to the consideration of my hon. friend, that the power should be taken only for ten years from the commencement of the Constitution and it should be made a transitional or transitory and not a permanent feature of the Constitution.

Shri Pataskar (Jalgaon): May I rise to a point of order? Amendment No. 1 which was the subject-matter of the main argument advanced by Mr. Chatterjee is like this:

"In article 369 of the Constitution for the words 'five years' the words 'ten years' be substituted."

Now, before I advance any arguments I will first draw your attention to the fact that the whole of the body of the Constitution, including the last article, article 368 which relates to the amendment of the Constitution, was completed with Part XX which contains article 368. After having framed the whole of the Constitution, after having provided also for the amendment of the Constitution and the way in which it was to be done, naturally, as there was to be a period of transition in view of the fact that some time would elapse before the whole Constitution could be brought into effect, some temporary and transitional provisions were made. And they are contained in this Part XXI.

Article 369 herefore was a temporary and transitional provision, and it says "Notwithstanding anything in this Constitution etc." That is why all these transitory provisions are like this, that whatever has been stated in the Constitution we will lay down for a certain period, either for a definite period or for some period which may be extended, "notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to

make laws with respect to the following matters etc.”

So this power was given by the Constitution to the Parliament only for a period of five years and the Constitution-makers were definite about it. It will not therefore be proper or consistent with the principles of the Constitution that we should now go on trying to amend it under an authority which is given for amending the Constitution itself. What I mean is it would exhaust itself by the period which is definitely laid down in the Constitution itself.

I would draw your attention to article 371 in support of what I have been pleading. For instance, there they thought that “notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State etc.” That is a temporary provision with respect to States in Part B of the Schedule. There they thought at that time that a period of five years may not be enough and therefore they made a provision in article 371 “during a period of ten years from the commencement of the Constitution or during such longer or shorter period as Parliament may by law provide”.

Therefore, I think my hon. friend Mr. Chatterjee would also realise that it is not proper, nor will it be constitutional for anybody, under the powers given for amending the Constitution in article 368, to go on amending the transitional powers. It would be open to Government—whether it is right or wrong is a different matter, I am not on that point—but suppose in respect of foodstuffs or some other commodities they wanted to do it, they can only do so by amending the Constitution and the different Schedules; that is the way it is now sought to be done. You cannot utilise the provision for amending the Constitution for making perpetual a transitory provision or increase the period from five years to ten years. So, apart from the

merits of the case, I think this amendment which seeks to extend the period from five years to ten years is not proper.

In other words, my submission is that these temporary powers—and there are similar powers given in article 370 with respect to the State of Jammu and Kashmir, and there are other provisions—they exhaust themselves during the period, whatever period has been allowed by the Constitution-makers.

Therefore, in the first place, my submission would be that the amendment is not constitutional really, and secondly, look at the whole scheme of the Constitution Act. The Constitution-makers gave this Constitution to the country. And, after having done that they made this provision also for amending the Constitution (article 368). And then they made certain transitional provisions which were to remain in force only for a definite period or for some other period.

So, apart from the merits of the question and how it can be done, I think it is unconstitutional and inconsistent with the very principles and the basis of the Constitution which has been framed. And I think it would be very improper that any Parliament whatsoever should try to perpetuate transitional powers by amending provisions which were given to them only for a limited period and for a limited purpose.

Mr. Speaker: I have not been able quite to appreciate and follow the point of order made by the hon. Member. The period for which the transitional provisions have been made is not yet over, and I find that this Part XXI itself gives different periods for different subjects. This Part is equally a part of the Constitution. Suppose the Parliament wants, the House wants to extend the transition period itself, could it not amend any of these provisions by prolonging the period? It is our Constitution today, as it is. If five years had passed and then the amendment had come, matters would

[Mr. Speaker]

have stood differently. I am unable to appreciate the point.

Shri Pataskar: My submission is wherever they wanted that there should be some variation even in the period for which the transitional provisions were made, just as in article 371, they made it clear. Suppose it was open to Parliament automatically to extend the period, there was no reason why they should have specifically put in the words "notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide."

That clearly gives the basis on which it is modelled. It may be therefore that they thought of that also. They never thought that the power which was given only temporarily should be used for amending the Constitution only for a limited period. That is all I have to say.

Shri Venkataraman: I think the amendment is out of order according to our Rules of Procedure and Conduct of Business. You will kindly look at Rule 117 clause 1, which says:

"An amendment shall be within the scope of the Bill....."

The scope of the Bill is to amend entry 33 in List III. Amendment of article 369 is not within the scope of this Bill and therefore, it may not be in order.

Shri T. T. Krishnamachari: May I make a submission? I think the main question may be decided unless the Chair feels very strongly, because the point of order is a border line point. My submission is that the Chair, if it feels like that, might not allow a border line point to go through. I know my hon. friends have got a case.

Mr. Speaker: My own inclination has been that the point of order does not seem to be very sound. If at all I am committing a mistake in respect of that. I entirely agree with the hon. Minister that we should not err on the side of holding the amendment to

be in order rather than put it out, at this stage. I need not now discuss that after having expressed an opinion. I think, so long as the temporary period is not over, any provision in Part XXI is equally a part of the Constitution which we are observing today. Would it not be possible, for example, under article 371 to say that instead of ten years, let the period be twenty years? The provision "Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period....." is there. That means, it is competent to prolong that period.

Shri Pataskar: There is specific provision for that.

Pandit K. C. Sharma (Meerut Distt.—South): Article 369 says five years. It means, transitional for a period of five years.

Mr. Speaker: Transitional provision is a part of the Constitution. Is it contended that that part today is a dead letter?

Some Hon. Members: No.

Mr. Speaker: It cannot be contended that way. That is a part of the Constitution today. Then, any hon. Member certainly has a right to suggest that that period should be prolonged or even to suggest that it should be shorter. In this case, a shortening would not be very much possible. Therefore, I think it is better to allow the amendment to go in rather than bar it on a technical ground like that.

Shri T. T. Krishnamachari: I am afraid, my hon. friend Shri N. C. Chatterjee is at a slight disadvantage in respect of this particular amendment as against the other Members of the House because, he has not been present during the discussion. He has been away most of the time. I am sorry that I have offended him in my remarks in respect of the dissenting minute because I see that he is the architect of the dissenting minute. These words like 'occupied field' and 'pulverised'

which he has taken great trouble to coin, attracted my attention. Very naturally that has provoked him into a performance of forensic fury of which legitimately the field is a court of law.

Shri A. M. Thomas: You do not give credit to Dr. Krishnaswami.

Shri T. T. Krishnamachari: I must tell hon. Members that, in spite of the fact that I know that I am treading on forbidden ground in criticising eminent lawyers, I have been a student of Constitutional law and I am reasonably well informed in regard to the Canadian Constitution. If he produces one book, I can produce seven or eight of them here. Unfortunately, an advantage that I possess is that I have read most of what I am quoting. (*Interruption*). I would like to refer my hon. friend to Dawson's book on the Government of Canada, page 100, where he says:

"The list of twenty-nine specific powers which were supposed to indicate the kind of exclusive authority vested in the Dominion includes the following:.....
.....Certain other sections of the Act add to this list, notably a subsection of section 92, which gives the Dominion jurisdiction over steamship lines, railways, canals, telegraphs, and other works extending beyond the limits of a province, and also over such works, even although wholly within a province declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces....."

Then, he goes on to say,

"Section 92 of the Act gives the chief provincial powers—not by any comprehensive grant, as in Section 91, but only as an exclusive power to make laws in relation to matters coming within sixteen enumerated classes of subjects."

I shall refer him to an older book,—this is what he has referred to—of

Lefroy. In his Book *Legislative Power in Canada*, in page 335, dealing with the legislative power of the Dominion he says that the decision of the Privy Council in the case of *Citizen's Insurance Co. v. Parsons*, following the other decisions cited in the notes show that in certain cases, local legislation, that is provincial legislation may indirectly render inoperative federal legislation and *vice versa*. The doctrine of occupied field as it is sought to be dragged here is not correct in the case of Canada as he has taken a chance quotation from one book on Canada.

My hon. friend Shri Venkataraman has drawn attention to the provision of article 254. Article 254 specifically refers to, where a particular provision of law is repugnant. Repugnancy comes in where a particular provision enacted by the Central legislature conflicts with a provision of law made by the provincial legislature. The question of occupied field is extremely limited even if we put a grammatical construction on that particular word. That is so far as criticism of occupied field.

So far as the other point is concerned, we have discussed it here threadbare on two occasions. I have replied to most of the arguments that he raised. I do not propose to weary the House by reply to those arguments. So far as this particular amendment is concerned, it is a trifle,—I do not say it is out of order—it is a trifle—if I may be pardoned for using that word because I cannot get another word now—uncouth. My hon. friend said in so many words that the transitory provisions, enumerating the subjects which fall under entry 33 of List III, sought to be incorporated in the Constitution, that would be ornate. My hon. friend is a lawyer who is very busy and I know he has not got the time to spare for the purpose of drafting, which we people can do at the time at our disposal. But, the purpose will not be served by accepting the amendment. There is a saying in my part of the country

[Shri T. T. Krishnamachari]

that after having listened all night to the exposition of Ramayana, somebody asked what is the relation between Rama and Sita. Not that my hon. friend does not know the relationship; he seeks to make out to the House that he does not know the relationship.

He asked, where have you proved the necessity. In that process, my hon. friend, eminent as he is in his own field, eminent as he is as a Member of Parliament, might have spared those officers of the Government who have prepared the report, in all decency, who have taken a lot of trouble about it. The fact that they are joint Secretaries or Deputy Secretaries or Economic Advisers did not count. But, they did know what their job is. They have no axe to grind. They do not want to please my party or Shri N. C. Chatterjee's party or any other party. I am prepared to take all the blame. The Government, the Treasury Benches here are prepared to take the entire blame on them. Why drag in somebody else who presented a factual picture of the situation? I think no case has been made out for limiting the powers for only five years.

Mr. Speaker: So, I will put the amendments to the House. The amendments will be, of course, passed or rejected by a simple majority. Then, I shall put the clauses and have voting by division.

The question is:

In page 1, for clause 2, substitute:

"2. Amendment of Article 369.—

(1) In Article 369 of the Constitution for the words "five years" the words "ten years" be substituted."

(2) For clause (a) of Article 369, the following clause be substituted, namely:—

"(a) trade and commerce in, and the production, supply and distribution of, foodstuffs (including edible oilseeds and oils), cattle fodder (including oilcakes and other concentrates), raw cotton

(whether ginned or unginned and cotton seed) and raw jute."

The motion was negatived.

Mr. Speaker: The question is:

In page 1, for clause 2, substitute:—

"2. Amendment of Article 369.— In Article 369 of the Constitution, for the words 'five years' the words 'ten years' shall be substituted".

The motion was negatived.

Mr. Speaker: The question is:

In page 1, for clause 2, substitute:

"2. Amendment of the Seventh Schedule.—In the Seventh Schedule to the Constitution, to entry 33 of List III, the following proviso shall be added, namely:—

'Provided that up to the 25th of January, 1960 this entry shall read as follows:—

"33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry where its control by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(b) foodstuffs including edible oilseeds and oils;

(c) cattle fodder, including oilcakes and other concentrates;

(d) raw cotton, whether ginned or unginned, and cotton seed; and

(e) raw jute."'"

The motion was negatived.

Mr. Speaker: The question is:

In page 1, line 8, omit "the production".

The motion was negatived.

Mr. Speaker: The question is:

In page 1, omit lines 14 to 18.

The motion was negatived.

Mr. Speaker: The question is:

In page 1, line 19 add at the end:—

“provided the growers are assured of the minimum economic price”

The motion was negatived.

Mr. Speaker: The question is:

In page 1, after line 19, add:

“Provided that all laws made by the Parliament in respect of items (b), (c), (d) and (e) here-in shall not remain in force for a period exceeding two years unless further extension and continuance are recommended by the resolution passed by the Legislature of the majority of Part A and Part B States and upon such recommendation the law shall remain in force for such further period as recommended therein.”

The motion was negatived.

Mr. Speaker: The question is:

In page 1, line 5, (i) before “In the Seventh Schedule” insert “(1)”; and

(ii) after line 19, add:

“(2) This amendment shall have effect for a period of five years from the date of commencement of this Act.”

The motion was negatived.

Mr. Speaker: I now put to the House about clauses 1 and 2, the Enacting Formula and the Title. The House will now divide.

Division No. 5.]

Order, order. I have not yet ordered the division. I must wait for three minutes before I ask Members to go into the lobbies.

Order, order. I am putting the question to the House.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): On a point of order, Sir, is it correct for any Member of the Council of States to be present here when we are having a division—any one who is not a Member of this House as such, for purposes of division? Is it right and proper that he should be present when we are dividing?

Mr. Speaker: Any Member of the Council of States?

Shri Jaipal Singh: Yes.

Mr. Speaker: He cannot be here.

Shri Jaipal Singh: Well, Sir, may I humbly suggest that there are, that there is one.

Mr. Speaker: The only point is that any Member of the Council of States who is a Minister has a right to be present in this House, though he has not the right to vote. The objection can be taken if such hon. Member taking advantage of his presence here, goes into the lobby.

Shri Jaipal Singh: I make a clarification. I am not objecting to the presence of people who should not be here, but I certainly think that the aura of their presence might have an effect on the division.

Mr. Speaker: Members are expected to be more strong-minded than that.

Now, I am putting this question.

The question is:

“That clauses 1 and 2, the Title and the Enacting Formula stand part of the Bill.”

The Lok Sabha divided: Ayes 288; Noes 35.

[3-35 p. m.

AYES

Abdullahai, Mulla
Achal Singh, Seth
Achint Ram, Lala

Achuthan, Shri
Agarwal, Shri S. N.
Agarwal, Shri H. L.

Agarwal, Shri M. L.
Alagesan, Shri
Aitekar, Shri

Alva, Shri Joachim	Dubey, Shri R. G.	Lakshmayya, Shri
Amin, Dr.	Dwivedi, Shri D. P.	Lal, Shri R. S.
Amrit Kaur, Rajkumari	Dwivedi, Shri M. L.	Lallanji, Shri
Ansari, Dr.	Eacharan, Shri I.	Laskar, Shri
Asthana, Shri	Ebenezer, Dr.	Lingam, Shri N. M.
Ayyangar, Shri M. A.	Fotedar, Pandit	Lotan Ram, Shri
Azad, Maulana	Gadgil, Shri	Madiah Gowda, Shri
Azad, Shri Bhagwat Jha	Gandi, Shri Feroze	Mahodaya, Shri
Balasubramanian, Shri	Gandhi, Shri M. M.	Majhi, Shri R. C.
Baldev Singh, Sardar	Gandhi, Shri V. B.	Majithia, Sardar
Balmiki, Shri	Ganga Devi, Shrimati	Malaviya, Shri K. D.
Bansal, Shri	Ganpati Ram, Shri	Malliah, Shri U. S.
Barman, Shri	Garg, Shri R. P.	Malvia, Shri B. N.
Barrow, Shri	Ghose, Shri S. M.	Malviya, Pandit C. N.
Barupal, Shri P. L.	Ghulam Qader, Shri	Malviya, Shri Motilal
Basappa, Shri	Gopi Ram, Shri	Mascarene, Kumari Annie
Bhakt Darshan, Shri	Gounder, Shri K. P.	Masuodi, Maulana
Bhandari, Shri	Gounder, Shri K. S.	Masuriya Din, Shri
Bharati, Shri G. S.	Govind Das, Seth	Matthen, Shri
Bhargava, Pandit M. B.	Guha, Shri A. C.	Maydeo, Shrimati
Bhargava, Pandit Thakur Dass	Hari Mohan, Dr.	Mehta, Shri Balwant Sinha
Bhartiya, Shri S. R.	Hazarika, Shri J. N.	Mehta, Shri B. G.
Bhatkar, Shri	Hem Raj, Shri	Minimata, Shrimati
Bhatt, Shri C.	Hembrom, Shri	Mishra, Shri S.
Bhawanji, Shri	Ibrahim, Shri	Mishra, Shri Bibhuti
Bheekha Bhai, Shri	Iyyunni, Shri C. R.	Mishra, Shri L. N.
Bhonsle, Shri J. K.	Jagjivan Ram, Shri	Mishra, Shri M. P.
Bidari, Shri	Jain, Shri A. P.	Misra, Pandit Lingaraj
Birbal Singh, Shri	Jain, Shri N. S.	Misra, Shri B. N.
Borkar, Shri	Jaipal Singh, Shri	Misra, Shri R. D.
Bose, Shri P. C.	Jaiware, Shri	Misra, Shri S. P.
Brajeshwar Prasad, Shri	Jangde, Shri	Mohd. Akbar, Sofi
Chailha, Shri	Jaysashri, Shrimati	Morarka, Shri
Chandak, Shri	Jena, Shri K. C.	More, Shri K. L.
Charak, Th. Lakshman Singh	Jena, Shri Niranjan	Mudaliar, Shri C. R.
Chaturvedi, Shri	Jehtan, Shri	Musafir, Giani G. S.
Chaudhary, Shri G. L.	Joshi, Shri Jethalal	Muthukrishnan, Shri
Chaudhuri, Shri R. K.	Joshi, Shri Krishnacharya	Nair, Shri C. K.
Chavda, Shri	Joshi, Shri Lladhar	Nanda, Shri
Chettiar, Shri Nagappa	Joshi, Shri N. L.	Narasimhan, Shri C. R.
Chettiar, Shri T. S. A.	Joshi, Shrimati Subhadra	Natawadkar, Shri
Chinaria, Shri	Jwala Prasad, Shri	Nathwan, Shri N. P.
Choudhuri, Shri M. Shaffee	Kajrolkar, Shri	Nehru, Shri Jawaharlal
Dabhi, Shri	Kakkan, Shri	Nijalingappa, Shri
Das, Dr. M. M.	Kale, Shrimati A.	Palchoudhury, Shrimati Ila
Das, Shri B.	Kanungo, Shri	Pande, Shri C. D.
Das, Shri B. K.	Karmarkar, Shri	Pannalal, Shri
Das, Shri K. K.	Kasliwal, Shri	Pant, Shri D. D.
Das, Shri N. T.	Katham, Shri	Paragi Lal, Ch.
Das, Shri Ram Dhani	Katju, Dr.	Parekh, Dr. J. N.
Das, Shri Ramananda	Kazmi, Shri	Parikh, Shri S. G.
Das, Shri S. N.	Keshavaiengar, Shri	Patakar, Shri
Datar, Shri	Keskar, Dr.	Patel, Shri B. K.
Deb, Shri S. C.	Khedkar, Shri G. B.	Patel, Shri Rajeshwar
Desai, Shri K. K.	Khongmen, Shrimati	Patel, Shrimati Maniben
Desai, Shri K. N.	Kidwai, Shri	Pathrikar, Dr.
Deshmukh, Dr. P. S.	Kirolikar, Shri	Patil, Shri Kanavade
Deshpande, Shri G. H.	Kottukappally, Shri	Patil, Shri Shankargauda
Dholakia, Shri	Krishna Chandra, Shri	Pawar, Shri V. P.
Dhulekar, Shri	Krishnamachari, Shri T. T.	Pillai, Shri Thanu
Dhusiya, Shri	Kureel, Shri B. N.	Prabhakar, Shri Naval
Digambar, Singh, Shri	Kureel, Shri P. L.	
Dube, Shri Mulchand		

Radha Raman, Shri
Raghubir Singh, Ch.
Raghunath Singh, Shri
Raghuramiah, Shri
Rahman, Shri M. H.
Raj Bahadur, Shri
Ram Dass, Shri
Ram Saran, Shri
Ram Subhag Singh, Dr.
Ramanand Shastri, Swami
Ramaswamy, Shri S. V.
Ranbir Singh, Ch.
Rane, Shri
Rao, Diwan Raghavendra
Reddy, Shri Viswanatha
Richardson, Bishop
Roy, Shri Bishwa Nath
Rup Narain, Shri
Sahaya, Shri Syamnandan
Sahu, Shri Bhagbat
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Saksena, Shri Mohanlal
Sanganna, Shri
Sankarapandian, Shri
Satish Chandra, Shri
Satyawadi, Dr.
Sen, Shrimati Sushama
Sewal, Shri A. R.
Shah, Shri C. C.
Shah, Shri R. N.
Sharma, Pandit Balkrishna

Sharma, Pandit K. C.
Sharma, Shri D. C.
Sharma, Shri K. R.
Sharma, Shri R. C.
Shobha Ram, Shri
Shukla, Pandit B.
Siddananjappa, Shri
Singh, Shri D. N.
Singh, Shri Babunath
Singh, Shri G. S.
Singh, Shri L. Jogeswar
Singh, Shri M. N.
Singh, Shri T. N.
Singhal, Shri S. C.
Sinha, Dr. S. N.
Sinha, Shri A. P.
Sinha, Shri Anirudha
Sinha, Shri G. P.
Sinha, Shri Jhulan
Sinha, Shri K. P.
Sinha, Shri Nageshwar Prasad
Sinha, Shri Satya Narayan
Sinha, Shri Satyendra Narayan
Sinha, Shrimati Tarkeshwari
Snatak, Shri
Sodhia, Shri K. C.
Somana, Shri N.
Subrahmanyam, Shri T.
Suriya Prasad, Shri
Syed Ahmed, Shri
Syed Mahmud, Dr.

Tandon, Shri
Tek Chand, Shri
Telkikar, Shri
Tewari, Sardar R. B. S.
Thimmaiah, Shri
Thomas, Shri A. M.
Tivary, Shri V. N.
Tiwari, Pandit B. L.
Tiwari, Shri R. S.
Tiwary, Pandit D. N.
Tripathi, Shri H. V.
Tripathi, Shri K. P.
Tripathi, Shri V. D.
Tyagi, Shri
Uikey, Shri
Upadhyay, Pandit Munishwar Dutt
Upadhyay, Shri Shiva Dayal
Upadhyay, Shri S. D.
Vaishnav, Shri H. G.
Vaishya, Shri M. B.
Varma, Shri B. B.
Varma, Shri B. R.
Verma, Shri M. L.
Velayudhan, Shri
Venkatraman, Shri
Vidyalankar, Shri A. N.
Vishwanath Prasad, Shri
Vyasa, Shri Radhelal
Wilson, Shri J. N.
Zaidi, Col.

NOES

Amjad Ali, Shri
Chatterjea, Shri Tushar
Chatterjee, Shri N. C.
Chaudhuri, Shri T. K.
Chowdhury, Shri N. B.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deo, Shri R. N. S.
Deshpande, Shri V. G.
Gadilingana Gowd, Shri
Gidwani, Shri
Gupta, Shri Sadhan

Gurupadaswamy, Shri M. S.
Jayaraman, Shri
Jena, Shri Lakshmidhar
Krishnaswami, Dr.
Mehta, Shri Asoka
Miseir, Shri V.
Mukerjee, Shri H. N.
Mushar, Shri
Nambiar, Shri
Nayar, Shri V. P.
Pandey, Dr. Natabar
Raghavachari, Shri
Rajabhoj, Shri P. M.
Ramasaaj, Shri M. D.
Ramnareyan Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri T. B. Vittal
Reddi, Shri Madhao
Rishang Keishing, Shri
Swami, Shri Sivamurthi
Verma, Shri Ramji
Waghmare, Shri

The motion was adopted.

Mr. Speaker: The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

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

Shri T. T. Krishnamachari: I beg to move:

"That the Bill be passed."

Mr. Speaker: Motion moved:

"That the Bill be passed."

I would invite the attention of the Members to the fact that we are behind the schedule by a lot of time. The third reading ought to have commenced at 3-40 P.M. So we are late by ten minutes. How shall we adjust now? Only twenty minutes are left now for the third reading.

That is what it comes to, but we shall, say, give about five or ten minutes at the most and I do not think the Minister will be replying again—I believe the same points will be recurring,—unless there is anything new. So we will have ten minutes for the third reading now and adjust the timings accordingly.

Shri H. N. Mukerjee (Calcutta North-East): I am sorry, Sir, that in spite of the very temperately and cogently presented point of view of the Opposition,.....

Mr. Speaker: Order, order.

Shri H. N. Mukerjee:.....in spite of the unanimous point of view of the Opposition, the solid phalanx of the ruling party has been requisitioned to overcome that point of view and in a little while we shall pass the Constitution (Third Amendment) Bill. I do not quarrel with the Minister. I do not ask for his professedly devoted head on a charger, because he has asked the House to permit an amendment to the Constitution. If I had my way, I would overturn this Constitution. That is not my grouse. But what I feel is that when we are changing the Constitution not in a basic direction, we at least have to take note of certain proprieties, we have to observe certain criteria. And on this occasion, there is no doubt about it, when the rights of the States have been encroached upon.

As far as I am concerned, I would like to have two criteria in regard to the amendment of the Constitution, quite apart from my own point of view that this Constitution needs a very drastic overhaul. We should find out, what exactly did the Constitution-makers want, as far as we can discover it. Then, we should also try to ascertain what was good for the country. As far as what the Constitution-makers wanted is concerned, the history of the Constituent Assembly is there. It goes back to just a few years. In 1946, the Prime Minister—who, I am sorry to say, is not here,—moved an objectives resolu-

tion, where the total experience of the national movement was sought to be summarised, and there the idea was that the residual power in the state would be vested in the Provinces or the States. Later, in 1947, because of certain circumstances, it was decided to change that point of view, and it was thought better that the Centre should be invested with a certain over-riding authority. That was what was done, but the total experience of the national movement was in favour of the allocation to the States of a rightful share of authority. I am not going into the constitutional details regarding which Constitution we have tried to follow, the American or the Australian or the Canadian or the South African, and so on and so forth. But we have tried to vest certain rights in the States, and at the same time, to clothe the Centre with some effective authority.

The Centre still has got those powers. There are in the Constitution so many provisions. Our Constitution enables the Union to issue administrative directions upon the States, and to supersede a State Government in case it refuses to carry out any of these directions. The Constitution also enables the Union to assume the power of State Governments in case of emergencies. But we do not normally consider that to be necessary. We do not invoke that kind of thing. What we want is that there should be real co-ordination of effort between the Centre and the States. But as a result of this amendment, the net result on the working of the States would be that they would lose real initiative in matters appertaining to such important things as are scheduled in the amendment which we have just passed. That being so, I feel it is going against the entire tradition of our national movement.

We have in this country such a vivid and vital and powerful movement for linguistic provinces. Why is it so? It is so because the idea is

[Shri H. N. Mukerjee]

that there are certain regions of our country which are demarcated according to certain well-delineated principles, and that the administration of those provinces can only be conducted properly by people who are on the spot, and who are conversant with the problems which agitate that particular demarcated region. That being so, the States have a very important role to play. But by this kind of legislation, by this amendment of the Constitution, we are low-lighting the character of the States, and that, I beg to say, is a calamity. I have found this sort of thing from time to time, as in the case of my State, namely, West Bengal—I hope the House will admit that I am no chauvinist, as far as regional patriotism is concerned; perhaps, even I am not a very good Bengali, but that is a very different aspect of the matter. But I have seen that in West Bengal, there was this idea of the Durgapur Coke Oven Plant, and something has happened. I do not know the exact details. The hon. Minister will perhaps correct me, but anyhow, something has happened, which is leading to a great deal of agitation in the minds of West Bengal. I find also the other day the hon. Minister.....

Shri T. T. Krishnamachari: I would like to tell the hon. Member that nothing has happened.

Shri H. N. Mukerjee: My point, however, is that there is a lot of feeling in West Bengal over this issue. I do not know the facts of the situation, which may very well justify the attitude of the Minister. The other day also, the Minister chose to make certain remarks which were possibly very well warranted, about sago and tapioca, and all that kind of thing. It has led to a great deal of furore in West Bengal—for good reason or bad reason, I do not know. But it indicates that between the Centre and the States, there should be harmony, there should be co-ordination of effort, and that is a principle which we should not attack in any way even in a remote fashion.

4 P.M.

You know the proverb says: 'You can take a horse to the water, but you cannot make it drink'. If we have got to co-operate, to secure co-operation between the Centre and the States, there has to be a kind of harmony. And what is the kind of future which we envisage, at least as far as the near future is concerned? Today, we have in this country the Congress Party dominating at the Centre and dominating almost everywhere. There is only one State, Travancore-Cochin, where another Party is in power. Of course, the difference between that Party and the Congress Party is very nearly the kind of difference in colouration between the pot and the kettle...

Some Hon. Members: No, no.

Shri H. N. Mukerjee: But there might very well be in the near future a situation where we find, let us say, in the Centre the Congress Party still in power—I am sure my friends of the Congress Party are envisaging a long period of continued prosperity and power. Let me grant, for the time being, that in the Centre the Congress Party will be in power, but in the States, may be, other groups, other combinations, other coalitions might come into power. And what do we want in that case as far as the parliamentary set-up is concerned? If there is no revolutionary flare-up and upsurge and that kind of thing, we want co-ordination, we want persuasion, we want discussion, we want a continuous effort to see to it that there is no break in that co-ordination, in that harmony. And that is why all the time you have got to convince the States regarding the rightfulness of what you are trying to do.

On this occasion, further, there have been very moderate and mild amendments suggested by my friend, Mr. Chatterjee, or my friend, Dr. Krishnaswami. There has been even an amendment, a very modest suggestion, that all laws made by the Parliament in respect of items (b), (c), (d) and

(e) herein shall not remain in force for a period exceeding two years unless further extension and continuance are recommended by the resolution passed by the Legislatures of the majority of Part A and Part B States and upon such recommendation, the law shall remain in force for such further period as recommended therein. Now, this is so mild, or so moderate, and Government cannot accept it. Now, I begin to fear that Government do not want the willing, voluntary, spontaneous co-operation of the States, and I do not know for what reason. I have my suspicions. In regard to the Bank Award, I find the Central Government hand in glove with Big Money. Possibly, some of the States are run by people who, maybe, are not in a position to be in such close association with Big Money. And that is why even though my friend, the Minister, has got enormous powers under the Industries (Development and Regulation) Act, I am very unhappy about the way he is administering that Act and I am very unhappy about the way he is likely in future to administer that Act. That being so, I do not see any good emerging out of this. That being so, I do not get any assurance that these powers on the part of the Central Government are going to be utilised for the sake of the common man, for the grower of jute, for example. I have no illusions on that point. As far as I have been able to see what the Central Government have done so far, I have no hopes in regard to the Central

Government's interest for the common worker, for the common toiler in the field, for the common toiler in industry. That being so, I feel that when there has been a united effort on the part of the Opposition to impress on the Government that they could very well move more steadily, more guardedly and more cautiously, they could very well show a greater respect for the identity, the self-respect and the effective authority of the different States from where we have the real administration of the country conducted from time to time. If we cannot even get a kind of arrangement between the Centre and the States which would be satisfactory for all concerned, then that surely bodes ill for the future of this country. That is why I am very sorry that in a very few moments' time we shall be passing this third amendment of the Constitution which is going to do no good to this country.

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): Don't be sorry.

Mr. Speaker: I will now put the motion to the vote, unless the hon. Minister has to say something.

Shri T. T. Krishnamachari: No, I have nothing to say.

Mr. Speaker: The question is:

"That the Bill be passed."

*The Lok Sabha divided: Ayes 286;
Noes 33.*

Division No. 6]

[4-5 p.m.]

AYES

Abdullahal, Mulla
Achal Singh, Seth
Achint Ram, Lala
Achuthan, Shri
Agarwal, Shri S. N.
Agarwal, Shri H. L.
Agarwal, Shri M. L.
Alagesan, Shri
Altekar, Shri
Alva, Shri Joachim
Amin, Dr.
Amrit Kaur, Rajkumari
Ansaril, Dr.

Asthana, Shri
Ayyangar, Shri M. A.
Azad, Maulana
Azad, Shri Bhagwat Jha
Balasubramaniam, Shri
Baldev Singh, Sardar
Balmiki, Shri
Bansal, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Bhakt Darshan, Shri
Bhandari, Shri

Bharati, Shri G. S.
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Dass
Bhartiya, Shri S. R.
Bhatkar, Shri
Bhatt, Shri C.
Bhawanji, Shri
Beekha Bhai, Shri
Bhonsle, Shri J. K.
Bidari, Shri
Birbal Singh, Shri
Borkar, Shri
Bose, Shri P. C.

Brajeshwar Prasad, Shri	Iyyanni, Shri C. R.	Mishra, Shri L. N.
Chahha, Shri	Jegjivan Ram, Shri	Mishra, Shri M. P.
Chanda, Shri Anil K.	Jain, Shri A. P.	Misra, Pandit Lingaraj
Chandak, Shri	Jain, Shri N. B.	Misra, Shri B. N.
Charak, Th. Lakshman Singh	Jaipal Singh, Shri	Misra, Shri R. D.
Chaturvedi, Shri	Jajwara, Shri	Misra, Shri S. P.
Chaudhary, Shri G. L.	Jangde, Shri	Mohd. Akbar, Sofi
Chaudhuri, Shri R. K.	Jayasbri, Shrimati	Morarka, Shri
Chavda, Shri	Jena, Shri K. C.	More, Shri K. L.
Chettiar, Shri Nagappa	Jena, Shri Niranjan	Mudaliar, Shri C. R.
Chettiar, Shri T. S. A.	Jethan, Shri	Mukne, Shri Y. M.
Chinaria, Shri	Joahi, Shri Jethalal	Musafir, Giani G. S.
Choudhuri, Shri M. Shafiq	Joahi, Shri Krishnachary.	Muthukrishnan, Shri
Dabhi, Shri	Joahi, Shri Laladhar	Nair, Shri C. K.
Das, Dr. M. M.	Joahi, Shri N. L.	Nanda, Shri
Das, Shri B.	Joahi, Shrimati Subhadra	Narasimhan, Shri C. R.
Das, Shri B. K.	Jwala Prasad, Shri	Natawadkar, Shri
Das, Shri K. K.	Kajrolkar, Shri	Nathwani, Shri N. P.
Das, Shri N. T.	Kakkan, Shri	Nehru, Shri Jawaharlal
Das, Shri Ram Dhanl	Kale, Shrimati A.	Palchoudhury, Shrimati Ila
Das, Shri Ramnanda	Kamble, Dr.	Pande, Shri C. D.
Das, Shri S. N.	Kanungo, Shri	Pannalal, Shri
Datar, Shri	Karmakar, Shri	Pant, Shri D. D.
Deb, Shri S. C.	Kasliwal, Shri	Paragi Lal, Ch.
Desai, Shri K. K.	Katham, Shri	Parikh, Dr. J. M.
Desai, Shri K. N.	Katju, Dr.	Parikh, Shri S. G.
Deshmukh, Dr. P. S.	Kazmi, Shri	Patakar, Shri
Deshpande, Shri G. H.	Keshavalengar, Shri	Patel, Shri B. K.
Dholakia, Shri	Keskar, Dr.	Patel, Shri Rajeshwar
Dhulekar, Shri	Khedkar, Shri G. B.	Patel, Shrimati Maniben
Dhusiya, Shri	Khongmen, Shrimati	Patil, Shri Kanavade
Digambar Singh, Shri	Kidwai, Shri	Patil, Shri Shankargauda
Diwan, Shri R. S.	Kirolikar, Shri	Pawar, Shri V. P.
Dube, Shri Mulchand	Kottukappally, Shri	Pillai, Shri Thanu
Dubey, Shri R. G.	Krishna Chandra, Shri	Prebhakar, Shri Naval
Dwivedi, Shri D. P.	Krishnamachari, Shri T. T.	Prasad, Shri H. S.
Dwivedi, Shri M. L.	Kureel, Shri B. N.	Radha Raman, Shri
Echaran, Shri I.	Kureel, Shri P. L.	Raghubir Singh, Ch.
Ebenezar, Dr.	Lakshmayya, Shri	Raghunath Singh, Shri
Fotedar, Pandit	Lal, Shri R. S.	Raghumalah, Shri
Gadgil, Shri	Lallanji, Shri	Rahman, Shri M. H.
Gandhi, Shri Feroze	Leskar, Shri	Raj Bahadur, Shri
Gandhi, Shri M. M.	Lingam, Shri N. M.	Ram Dass, Shri
Gandhi, Shri V. B.	Lotan Ram, Shri	Ram Saran, Shri
Ganga Devi, Shrimati	Madiah Gowda, Shri	Ramanand Shastri, Swami
Ganpati Ram, Shri	Mahodaya, Shri	Ramaswamy, Shri S. V.
Garg, Shri R. P.	Majhi, Shri R. C.	Ranbir Singh, Ch.
Gautam, Shri C. D.	Majithia, Sardar	Rane, Shri
Ghose, Shri S. M.	Malaviya, Shri K. D.	Reddy, Shri Viswanatha
Ghulam Qader, Shri	Malliah, Shri U. S.	Richardson, Bishop
Gopi Ram, Shri	Malvia, Shri B. N.	Roy, Shri Bishwa Nath
Gounder, Shri K. P.	Malviya, Pandit C. N.	Rup Narain, Shri
Gounder, Shri K. S.	Malviya, Shri Motilal	Sahaya, Shri Syamnandan
Govind Das, Seth	Mascarene, Kumari Annie	Sahu, Shri Bhagbat
Guha, Shri A. C.	Masuodi, Maulana	Sahu, Shri Ramswar
Gupta, Shri Badshah	Masuriya Din, Shri	Saigal, Sardar A. S.
Hari Mohan, Dr.	Matthen, Shri	Saksena, Shri Mohanlal
Hazarka, Shri J. N.	Maydeo, Shrimati	Sanganna, Shri
Hem Raj, Shri	Mehta, Shri Balwant Sibia	Sankarapandian, Shri
Hembrom, Shri	Mehta, Shri B. G.	Satish Chandra, Shri
Ibrahim, Shri	Mishra, Shri S. N.	Satyawadi, Dr.
	Mishra, Shri Bibhuti	Sen, Shrimati Sushama

Sewal, Shri A. R.
 Shah, Shri C. C.
 Shah, Shri R. N.
 Sharma, Pandit Balkrishna
 Sharma, Pandit K. C.
 Sharma, Shri D. C.
 Sharma, Shri K. R.
 Sharma, Shri R. C.
 Shobha Ram, Shri
 Shukla, Pandit B.
 Siddananjappa, Shri
 Singh, Shri D. N.
 Singh, Shri Babunath
 Singh, Shri G. S.
 Singh, Shri L. Jogeswar
 Singh, Shri M. N.
 Singh, Shri T. N.
 Singhal, Shri S. C.
 Sinha, Dr. S. N.
 Sinha, Shri A. P.
 Sinha, Shri Anirudha

Sinha, Shri G. P.
 Sinha, Shri Jhulan
 Sinha, Shri K. P.
 Sinha, Shri Nageswar Prasad
 Sinha, Shri Satya Narayan
 Sinha, Shri Satyendra Narayan
 Sinha, Shrimati Tarkeswari
 Snatak, Shri
 Somana, Shri N.
 Subramanyam, Shri T.
 Suriya Prasad, Shri
 Syed Ahmed, Shri
 Syed Mahmud, Dr.
 Tandon, Shri
 Tek Chand, Shri
 Telkikar, Shri
 Tewari, Sardar R. B. S.
 Thimmaiah, Shri
 Thomas, Shri A. M.
 Tiwari, Pandit B. L.
 Tiwari, Shri R. S.

Tiwary, Pandit D. N.
 Tripathi, Shri H. V.
 Tripathi, Shri K. P.
 Tripathi, Shri V. D
 Tyagi, Shri
 Utkay, Shri
 Upadhyay, Pandit Muniswar Dutt
 Upadhyay, Shri Shiva Dayal
 Upadhyay, Shri S. D.
 Vaisnav, Shri H. G.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Varma, Shri B. R.
 Verma, Shri M. L.
 Venkataraman, Shri
 Vidyalankar, Shri A. N.
 Vishwanath Prasad, Shri
 Vyas, Shri Radhela
 Wilson, Shri J. N.
 Zaidi, Col.

NOES

Amjad Ali Shri
 Chatterjee, Shri Tushar
 Chatterjee, Shri N. C.
 Chaudhuri, Shri T. K.
 Chowdhury, Shri N. B.
 Das, Shri B. C.
 Das, Shri Sarangadhar
 Dasaratha Deb, Shri
 Deo, Shri R. N. S.
 Deshpande, Shri V. G.
 Gadilingana Gowd, Shri

Gidwani, Shri
 Gupta, Shri Sadhan
 Jayaraman, Shri
 Krishnaswami, Dr.
 Mehta, Shri Asoka
 Misir, Shri V.
 Mukerjee, Shri H. N.
 Mushar, Shri
 Nambiar, Shri
 Nayar, Shri V. P.
 Raghavachari, Shri

Ramasami, Shri M. D.
 Ramnarayan Singh, Babu
 Rao, Dr. Rama
 Rao, Shri Gopala
 Rao, Shri P. Subba
 Rao, Shri T. B. Vittal
 Reddi, Shri Madhao
 Reddi, Shri Bswara
 Rishang Keishing, Shri
 Swami, Shri Sivamurthi
 V

The motion was adopted.

Mr. Speaker: The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

INDIAN TARIFF (SECOND AMENDMENT) BILL

Mr. Speaker: The House will now proceed with the Bill it was discussing—the Tariff Amendment Bill.

Shri Bansal: Sir, I give my whole-hearted support to the principles underlying this Bill. My friend Mr. Nayar made a speech which left an impression on me that public memory is very short. He seems to have forgotten those days when import control was being assailed on all sides. We know very well how import

control was working during the time of war and after the war until the time the present Commerce and Industry Minister changed the whole attitude of the Department towards import control.

The chief objections against the working of import control were that, because it was uncertain and vacillating, therefore it was speculative; because it was based on executive action, therefore it was discriminating and leading to corruption. We know who benefited from this import control. We have not forgotten those days when import control was becoming a monopoly of people who were working in the by-ways and alley-ways of the Secretariat. Another defect of the import control was that its incidence was difficult to work out on the protective element which it provided to indigenous industries. It is well-known that in a