

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

Dated.....27/11/54

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LOK SABHA

Saturday, 11th September, 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

12.7 P.M.

PAPERS LAID ON THE TABLE

NOTIFICATIONS UNDER SALARIES AND ALLOWANCES OF MINISTERS ACT, 1952

The Deputy Minister of Home Affairs (Shri Datar): I beg to lay on the Table a copy each of the Ministry of Home Affairs Notifications No. 18/37/52-Public, dated the 13th January, 1954 and No. 18/11/54-Public, dated the 15th March, 1954, under sub-section (2) of section 11 of the Salaries and Allowances of Ministers Act, 1952. [Placed in Library. See No. S-310/54.]

CONVICTION OF MEMBER

Mr. Speaker: I have to inform the House that I have received the following telegram today, or, more correctly, last night about midnight or so:

"Speaker House of the People New Delhi.

On 10th September, at 11.40 A.M. Shri Kandala Subramanyam Member House of People arrested at Karivena Village, Atmakur Police Station, Kurnool, Rural District Andhra State, under Sections 143 and 447 I.P.C. in connection with an Agrarian Satyagraha. He was 364 L.S.D.

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convicted and sentenced to six months rigorous imprisonment under Section 143 I.P.C. and three months rigorous imprisonment under section 447 I.P.C., both sentences to run concurrently by Stationary Sub-magistrate Nandikotkur. He is being sent to Alipur Jail, Bellary. Detailed report follows."

That is the intimation that I have received today.

CONSTITUTION (THIRD AMENDMENT) BILL—Contd.

Mr. Speaker: The House will now proceed with the further consideration of the motion moved by Shri T. T. Krishnamachari on the 10th September, 1954 for reference of the Bill to Joint Committee.

There are also some amendments. They are also under consideration. In this connection, the hon. Members know the procedure as laid down in our rules about considering any motion or any Bill for amendment of the Constitution. The discussion, as settled by the Business Advisory Committee, will continue up to 1-55 P.M. Referring to the convention which I stated the other day, it being interval for lunch, we shall not have voting at that time. The voting will have to be by a division in the lobbies. The voting will take place after the flood debate is over. Incidentally that will give fuller time to the flood debate also.

Pandit Thakur Das Bhargava was on his legs.

Pandit Thakur Das Bhargava (Gurgaon): Sir, I was submitting yesterday that the Constitution was not enacted by the framers as if every

[Pandit Thakur Das Bhargava].

State in India was a federating unit, in the sense that all its powers were with itself and only certain powers were given to the Centre. As a matter of fact, our attention has been brought to this fact by Mr. More. Still, Mr. More should remember that this Constituent Assembly consisted of many Congress Members, a majority of Congress Members, and they framed the Constitution; and if the Congress had a right to pass resolutions in previous days, that Constituent Assembly had a right to enact the Constitution in the manner they pleased.

[SHRI PATASKAR *in the Chair*]

It is usual, whenever an argument is made, to refer to old resolutions of the Congress or to certain other matters which are favourable to the argument which is being sponsored by the hon. Member at the time, but it is forgotten that at all other times all the other Members of the Congress have the right to change that resolution also. We enacted something in the Constituent Assembly, and now we are considering a change. Now, is it not up to us to change it. It is quite right that this Constitution is a sacred document and we should not change it in a haphazard manner or without giving full deliberation to it. But, at the same time, I do not understand why Mr. More is calling our attention to the fact that it is a federal Constitution.

Sir, in this federal Constitution, we gave all the residuary powers to the Centre deliberately, and in this Constitution, as I submitted yesterday, the spirit of unitary federation permeates everywhere. That is, we have got articles 355, 356 also in the Constitution, and the Centre is, as a matter of fact, responsible to the States also and the people of the States for good government and for all other purposes and to see that the Government is carried on in accordance with the Constitution. I should, therefore, submit that we have got our own peculiar Constitution, and article 368 is

there in the Constitution by virtue of which we can amend the Constitution. When I am on article 368, I must call the attention of the House to one very important factor, namely that in an amendment of this nature, there is a provision given in article 368, itself, which is very salutary and which says:

"Provided that if such amendment seeks to make any change in—

(a) article 54, article 55, article 73, article 162 or article 241, or

(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article, the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent."

This means that in a matter of this moment, the States are by law authorised to give their reactions to a Bill of this sort as a majority of them must ratify such a measure. So, the safeguard is enacted in article 368 itself.

But barring that, there are certain special circumstances in the economy of our country, and in the present position in which we find ourselves today, that I cannot see any time when the Centre shall feel safe or shall be justified in giving all these powers to the States. For instance, I cannot foresee any time, at least for the coming twenty years or so, when there will be no plan in this country, so far as progress is concerned. We have today got the First Five Year Plan, and the Second Five Year Plan is in

the offing, and then, I do not know if there will not be any third or fourth Five Year Plan; I am sure they are bound to be there. As long as planning goes on in any country, I cannot see how these sorts of powers can be completely transferred to the States.

It is true that when we enacted the Constitution, we did not foresee that these Plans would be coming. In fact, we had no clear perception, and no clear appreciation of the fact that planning will have this sort of influence in our economy. As long as planning is these, I do not see how in regard to those matters also which are of primary concern to the States, the States will have full control over all the matters which are mentioned in article 369. Therefore, to my mind, this fact alone, namely that the Planning Commission is there, and that the Plans are there, is sufficient to lead us to agree to an amendment of this entry.

Shri S. S. More (Sholapur): Does the hon. Member plead that planning is inconsistent with provincial autonomy?

Pandit Thakur Das Bhargava: I did not say so. It is not my intention to say so. I do not see how provincial autonomy will be affected if some of the powers are concurrent with the Centre. I cannot see how planning can be successful otherwise. I can not see any time when, in the circumstances of our country, price control can be taken away from the Central Government. Price control is even today in the Concurrent List, and if the price control is there, Government are able to influence all those matters which are mentioned in article 369.

Shri S. S. More: It becomes accumulated corruption. (*Interruptions*)

Pandit Thakur Das Bhargava: It may mean anything. Shri S. S. More is certainly entitled to call it corruption or anything else. He has got mastery over his tongue, and he can

find out expressions to express himself. If price control is a concurrent subject, I do not see how provincial autonomy in respect of these matters can be given to the States for all time or even to a full extent. If the Centre can control the price of wheat and also the prices of other articles like fodder, foodstuffs etc., I would like to know how the States can go against it, and how that price control can fail to influence the growth of foodstuffs and other agricultural commodities. Suppose today the price of wheat is fixed at a certain amount that would also control the price of all other commodities, and that will influence the incentives for growing this or that crop. So, I should think that as long as price control is with the Government of India, it is idle to think that there can be provincial autonomy in the matter of the production of foodstuffs etc. The only point is that I do not consider that the Government of India will ever behave in such a manner that by having this price control on foodstuffs, they will try to influence the production of other things also. It is much better that we see things in their full perspective, and do things rightly and straightforwardly and not colouredly and by crooked methods. I should, therefore, think that as long as the question of planning is there, and as long as we are not divided or re-organised into States, fully equipped States which have got an economy of their own, and which are self-sufficient in the matter of foodstuffs etc., I cannot foresee any future when it will be wise for us not to give powers to the Central Government to control all these matters.

I remember in the year 1949 probably, we had a very good bumper crop of gram in Hissar District. We approached our Provincial Government to allow us to export gram. Gram was selling at Rs. 6-8-0 per maund in Hissar District; it was selling at Rs. 10 in Palwal in Gurgaon District, and at Rs. 20 or so in Madras and Calcutta. And yet, we were

[Pandit Thakur Das Bhargava]

not allowed to export gram. As a result, Hissar District alone lost something like a crore of rupees. What happened in Delhi subsequently? There was a tonga strike here, as many hon. Members might remember, and the Government of India wanted the Punjab Government to allow gram to be exported out of Punjab to Delhi. But the Punjab Government would not agree. Mr. Munshi asked the Punjab Government to take Rs. 13 instead of Rs. 9 per maund, i.e., Rs. 4 more per maund, but the Punjab Government would still not agree. Then, Mr. Munshi took courage in both hands, and de-controlled gram, with the result that though it was stated by the Punjab Government that we did not have enough stocks of gram in Hissar District, still we sent 60,000 maunds of gram to Bihar. Ultimately, whatever the local Government had expressed as its estimate was proved to be quite wrong. It so happens that the local and State Governments have sectional interests. When the question of rice was discussed here, every Member from Madras was complaining that they were not having good rice there, whereas we in the Punjab were given good rice in ration. Then I submitted from my place, here in the House that in the Punjab, you are giving us rice, we are not rice-eating people, take away this rice from us, and give it to Madras; and the Punjab Government had to change their orders. So, I must submit in regard to this matter, that there are deficit States in India, and there are surplus States also. So far as the interests of the deficit States are concerned, they can only be protected by the Central Government.

In India, we want to have one kind of uniform economy only. I should say that I will not be happy as long as the differences in price of essential articles in the whole of the country are allowed to be more than what is warranted by the cost of transport only. I have seen that in certain years, the prices have been

about Rs. 40 in Bombay and Bengal, whereas in other parts of the country, they have been in the region of Rs. 20 per maund. in respect of certain cereals and other articles. I do not like this. In article 18 of the Constitution, as it was originally drafted—that article is not to be found in our present Constitution, and probably it has been replaced by article 301—we laid it down as a fundamental right that commerce and trade in India will be free, which meant that in all parts of India, things will be sold at practically the same price.

But what do we find, when we have given these powers to the States? We know the history of the sales tax, and we know how article 286 has been abused. We know how the country is feeling uncomfortable over the powers that have been exercised by the States in regard to sales tax. There is no uniformity in the whole of India, with regard to sales tax.

[SHRI BARMAN in the Chair]

As long as we have got an economy like the one which we possess today, as long as the States are not re-organised properly, as long as India is not divided into four or six parts only, each of which will have an economy of its own and be self-sufficient in the matter of foodstuffs etc., as long as that is not done, I do not see how we can be happy in the whole of India, and how we can have uniformity as regards prices etc., unless the Centre is armed with these powers for many years to come.

It is quite true that so far as the theory goes, the decentralisation theory is there. The theory propounded by our friend, Mr. More, that in a Federation the powers of the States should be defined and that the Centre should exercise only those powers which are surrendered by the States to the Centre, is there. All these theories are correct as theories. I have got every sympathy with them; I have sympathy with the fact

that our Constituent Assembly, to start with, liked that these powers should be placed with the States. I am not forgetful of all that, but at the same time, I cannot ignore what I have seen during the last five or six years. When originally we had no idea of planning, no idea of how things would shape themselves in the coming years, we thought that it would be better that we copied other States in the world where federating units were given these powers over land, water, foodstuffs etc. But we have found that in the peculiar circumstances of India and in the peculiar conditions of our country, it was absolutely necessary for the Centre to possess these powers and unless the Central Government possessed these powers, and exercised them, the country would not be happy.

Apart from this, during all these five years we have seen that there have been price controls in regard to many articles. Though I have been a very great critic so far as the policy of the Government about controls was concerned—I have always been of the view that these controls have aggravated corruption etc. etc.—all the same, I would be wrong in submitting before this House that these controls have not had their good and salutary effects. Go to any factory, go to the poor people, go to the ordinary consumer; he will tell you 'we will not have got sufficient cereals and sufficient other things to consume at reasonable rates, if there were no controls'. Therefore, it was that our labour population always insisted that there should be controls. So controls have been useful also. Now, it is a matter really between the Centre and the States. When I find that the opinion of the State Governments is also in favour of the view that these controls have proved very useful, I think that so far as public opinion is concerned in this matter, it is in favour of the view that we should amend this article. Now, I will just read out the views of the local Governments in regard to these controls. I find at

page 12 of the Report of the Commodity Controls Committee the following:

"A majority of the State Governments, either in their written evidence or oral evidence before us, expressed the view that the working of the three Control Acts has on the whole reacted well on the general economy of the country. It is pointed out by them that the existence of controls has not hampered production; in fact, that production of certain commodities actually increased. In regard to prices, the view is strong that controls had the desired effect of keeping prices steady if not lowering them. Prices of essential commodities, it is pointed out by them, were stabilised at reasonable levels. The State Governments are also of the view that proper supply and distribution of the commodities have been achieved as a result of controls. But for controls, equitable distribution of the essential commodities would not have been possible".

This is the view about the effect of controls. This Committee also was armed with the views of the Planning Commission on controls. I do not want to read the long passage which I find in the Report of this Committee at page 16, but all the same, as the hon. Minister has suggested if one reads these first 23 or 25 pages of this book, it will repay perusal. A very strong and almost conclusive case has been made out by the Planning Commission, as per paragraph 31, for the view which they have expressed, and I think after reading this, nobody shall remain unconvinced of the fact that in India these controls have got to remain for a long time in our economy, unless many things have changed, unless the pattern of things has changed so appreciably that controls will not be required at all. I do not foresee any future in which controls will not be found here in India to be useful.

Pandit K. C. Sharma (Meerut Dist.—South): Anywhere in the world.

Pandit Thakur Das Bhargava: My friend says, anywhere in the world. I certainly agree with him. If planning is to be found, controls are a necessary part of it. If you want planning, you must have controls of some sort; otherwise, planning has got no meaning. I can understand that the way in which these controls are worked may be irksome, may be very difficult, may be giving trouble to the people. But that is no reason why we should be against controls. I am very much against the way the controls are managed; they may prove perhaps very disastrous. It was not due to controls but due to the mismanaged working of the controls that people suffer. We know what happened in the States. After all the working of these controls, the implementation of these controls, will take place in the States. And in the States they are not properly worked. But the blame does not lie with controls, but with their working. In the very nature of things, it is difficult to work controls, but all the same, we cannot escape from this difficulty. If we are to have planning, if we are to work in the best interests of India, it is absolutely necessary that the Central Government should have concurrent powers. I submitted for the consideration of the House that this means that if we amend item 33 and give power over these articles to the Central Government, the result will be that the Central Government being too powerful will have the entire charge and the State Governments will have practically no independence in this matter. But I see that though many of the States have agreed, it is Bombay alone which has raised some difficulty.

Shri Raghavachari (Penukonda): Some have not replied.

Shri S. S. More: It requires back-bone.

Pandit Thakur Das Bhargava: As Mr. More says, perhaps it requires back-bone.....

Shri U. M. Trivedi (Chittor): Not back-bone, but Backbay!

Pandit Thakur Das Bhargava:...to say that the Centre should not have those powers. They do not have the courage of saying so...

Shri Raghavachari: With your permission, I would like to point out that it is unfair to attribute any motives to those people who are still considering the matter.

Pandit Thakur Das Bhargava: Then I am quite right in saying that so far as they are concerned, they have not seen fit to make a reply that they are not agreeable. At the same time, which are the States which want the control to continue. In the list given by the hon. Minister yesterday, I found that many of the small States were enumerated, to start with. Now, it is in the interest of the deficit States and the small States that the Centre should have the control so that they may not be put to any difficulty...

Shri S. S. More: Bombay is a deficit State.

Pandit Thakur Das Bhargava: I know that Bombay is a deficit State. But Bombay had itself said in the previous letter that so far as cotton was concerned, the Centre might have control...

Shri S. S. More: Circulate the opinions. Then we will be in a position to judge.

Pandit Thakur Das Bhargava: Opinions should have been circulated; I am at one with Mr. More in saying that we should have had circulated to us all the information so that Members might be able to form independent views of their own. But I know that so far as Bombay is concerned, they want that cotton may not be taken out of control. At the same time, so far as food is concerned, Bombay is a deficit State. Why

did not Bombay during all these five years come up to the standard of a self-sufficient State? What has it done?

Shri S. S. More: We cannot help precarious rainfall.

Pandit Thakur Das Bhargava: Therefore, according to my friend, since he cannot control rainfall, he cannot make the State self-sufficient. Let him therefore agree to the only thing.....

Shri S. S. More: Surrender my freedom!

Pandit Thakur Das Bhargava: Let him see how far other States have become self-sufficient. Take, for instance, Punjab. Punjab was a deficit State; but Punjab became a self-sufficient and surplus State during these four or five years.

Shri S. S. More: What is the percentage of irrigated land in Bombay and Punjab?

Pandit Thakur Das Bhargava: When Punjab started, it was a deficit State. During all these years, Bhakra has not contributed so far to make Punjab a surplus State. Bhakra only started yesterday and even now we have not got water for our lands. At the same time, due to other matters, due to the industry of Punjabis and State efforts, Punjab became self-sufficient.

An. Hon. Member: What are the other matters?

Mr. Chairman: May I request the hon. Member to avoid these cross-arguments?

Pandit Thakur Das Bhargava: I am grateful to you for the advice you have given me. It would be better if that advice was given to other Members because I cannot be so discourteous as not to reply if they put questions. I will be brief and I will not answer any of these interjections.

I was submitting that so far as the question of controls is concerned, I do

not foresee that in the future these controls will not be in existence in India for the coming at least fifteen or twenty years.

[SHRI PATASKAR *in the Chair*]

I was submitting that I am anxious, at the same time, that some sort of independence should be secured to the States. It can be worked like this. In regard to certain matters, especially production, the powers of the Centre and the States can be so distributed by convention that the States, for instance, can be given a fair amount of power in regard to production. So far as distribution and price control are concerned, I cannot see how the States can be given these powers for a long time.

There is State patriotism. Supposing we produce wheat in the Punjab. We would rather like that the price of wheat is so fixed that we may be able to get as much as possible from the rest of the States to whom we supply wheat. Similarly, cloth etc. Unless cloth is controlled, it would be very difficult for the rest of India except Bombay and Ahmedabad to get all the cloth they want at reasonable prices, if Bombay did not want that the prices should be controlled. Bombay does not produce all the cotton it requires. Our country is so circumstanced that we should like the Centre to exercise these powers for the benefit of the whole country.

Reference was made to article 263 of the Constitution. I have read this article and I find that there is nothing in that article which has got any bearing on the question of any price control or other control. As a matter of fact, it refers to some other things.

Shri S. S. More: It has reference to co-ordination.

Pandit Thakur Das Bhargava: It has reference to co-ordination in respect of other matters. So far as these things are concerned, we have been accustomed to an economy for the last

[Pandit Thakur Das Bhargava]

five or six years that the Centre has been managing these affairs for us and has been managing it in a very satisfactory manner. I cannot think of the situation when all the States have all the powers enjoyed by the Centre. What would happen? Nothing but chaos, nothing but destruction and nothing but unstability and dissatisfaction would have resulted if the Centre had not exercised these powers. We know how powers are exercised in the different States. We find in the Centre a much better atmosphere, where everything is heard, debated upon and decided on reasonable grounds.

Shri Raghavachari: There are also other Legislatures where everything is being done democratically.

Pandit Thakur Das Bhargava: I am very glad that an hon. Member from Madras has this feeling. I come from the Punjab and I know how things are being done there and what things are taking place there. We know what is happening in our own State Legislatures. I am very glad that we have a friend who is satisfied with what is happening in Madras. When we hear of troubles in Madras, Madhya Pradesh and other States.....

Shri S. S. More: Are there no quarrels in the Centre?

Pandit Thakur Das Bhargava: There is nothing.

Shri S. S. More: What does Shri Giri's resignation indicate?

Pandit Thakur Das Bhargava: It does not indicate anything except that Shri Giri is a very honourable man.

The Chair might ask my friends not to disturb me so that I can come to the end of my argument.

My conclusion is this. I am anxious that so far as the Constituent Assembly is concerned, its wishes may be respected to a certain extent. I am anxious that the principle propounded by Mr. Asoka Mehta may

be given effect to. I am also anxious that Mr. More's desire that the States should have some sort of independence may also be given effect to. But, how effect can be given to it is a matter of slow growth, a matter of convention between the States and the Centre. I would like that in future years, if we pass this amendment, things should establish themselves in such a manner that a convention may grow that in certain respects the States may get the independence desired.

So far as planning is concerned, so far as economy is concerned, so far as the present circumstances are concerned, I do not see any escape from the fact that we should make this item a concurrent one. The only alternative is that we make it a central one and by the exercise of the powers of delegation States may function in future. Because the Centre has been utilising these powers satisfactorily and the Centre shall have to utilise these powers if the economy of the whole of India is to be controlled and rightly controlled. I am clearly of the view that these subjects be made concurrent.

Shri Frank Anthony (Nominated—Anglo-Indians): Mr. Chairman, I rise to support the motion by the hon. Minister. I feel—I say it with respect—that some of my hon. colleagues in this House have made unnecessarily heavy weather of this amendment. The line has been taken by some that the Constitution should be invested with a certain amount of sanctity and that, as such, we must not tinker with it lightly or constantly. I am prepared to accept the validity of the proposition but not in a general way. I am not prepared to accept the proposition that the Constitution, as a whole, is a sacred and inviolable document. I do say this that certain parts of the Constitution must be regarded by us as sacred and inviolable.

So far as the fundamental rights are concerned, so far as the categorical rights which we have agreed to

certain individuals are concerned, which we have given to certain sections of the people after careful and prolonged consideration, these rights must be regarded as sacred and inviolable. If there was an attempt to tamper with the fundamental rights, the rights categorically given to certain sections of the people or even to individuals, I would resist that attempt and stigmatise it as nothing short of political vandalism, if not downright treachery.

But, Sir, I feel that when we come to a question—as in this case—of administrative needs or even administrative exigencies, these considerations cannot possibly apply. Some of my hon. friends—I listened to them when they spoke and I do not know whether the hon. Minister listened to them, but he will get a cue from me as to how he should reply to some of their arguments—argued as if the States have been given fundamental rights. As a matter of fact, I have myself observed that some of the States behave as if they have been given fundamental rights under the Constitution. I have also observed that some of them like the Bombay State go further and behave as if they have been given devine rights. As I have said, when it comes purely to considerations of administrative exigencies and the needs of the country as a whole, I for one would not hesitate to amend the Constitution as and when occasion arises and as often as that occasion may arise.

It was also stated by some of our legal pandits and others—I do not know why—that we have a federal Constitution. My friend Pandit Thakur Das Bhargava made a reference to this. I do not know what the implication of that reference was. That by itself means nothing one way or the other. There are federal structures and federal structures as Pandit Thakur Das Bhargava has pointed out. Our federal structure has a definite unitary bias. Even the Federation which the American Constitution has is different in a radical kind of way.

The residuary powers under the American Constitution were not left with the Centre; they were left with the States and even there what has happened? In the interests of national strength, in the interests of national cohesion, by judicial interpretation, more and more a unitary bias has been given to what was never intended to be a federal structure with a unitary bias. But, as my hon. friend has pointed out, here the framers of the Constitution have deliberately given this unitary bias to our federal structure. They have deliberately left all the residuary powers in the hands of the Centre and I say the intention was this. Wherever and whenever the interests of the country were concerned, it was intended that the Centre should put in motion and should interpose its authority to put in motion centripetal forces. It was never intended that this Constitution of ours with this over-riding unitary bias should ever be interpreted in such a way that we should have increasingly centrifugal forces or increasing authority granted to the States. That was never the intention either of the Constitution or of the framers of the Constitution.

I say this—and when I say this, I hope my friends will not take umbrage at it—that we are inclined to be rather impractical people. We are inclined to be overborne by slogans and clichés. I find this cliché of decentralisation particularly unacceptable to me. I believe that this was something which was perpetrated many years ago, perhaps propounded in a political vote-catching atmosphere. But my own feeling is—and it is my humble opinion—that every hostage given to decentralisation under the conditions which prevail in the country today, means a hostage given to disintegration. I would encourage the hon. Commerce Minister—but he does not seem to want any encouragement—not only in the case of essential commodities, but—and this should be accepted as a thesis of Government policy—whenever it is considered essential in the larger interests

[Shri Frank Anthony]

of the country to interpose the authority of the Centre wherever it is necessary. I make this assertion and I know my friend, Mr. More and other issue with me, but I do not think anybody is in a position to question this. I say that 90 per cent. of the administrative ills from which this country is suffering today is due to....

Shri S. S. More: Due to the concentration of power at the Centre.

Shri Frank Anthony: Not to that, but to the unequal, halting and inapt administrations of your different States. That is what your administrative ills are due to.

Shri S. S. More: You follow the British argument.

Shri Frank Anthony: My friend is always indulging in clichés. They try to damn rational arguments by stigmatising them as British or foreign or as exotic. I am thinking in practical terms and what has happened and what is happening today. My friend, Pandit Bhargava pointed illustrations to us. What have the State Governments shown? They have shown, by and large, their incapacity to think in the larger and national terms of the country. We saw this and it was a demoralising spectacle—the Commerce Minister may not choose to use this illustration—but what did we see with regard to the food problem? It was demoralising spectacle. We saw States entering into competition with one another, almost cut-throat competition, each State trying to over-pitch its claim, or one State over-stating its claim in the matter of its actual requirements and another State understating its capacity in the matter of procurement. We are asked in a mood of utopian abandonment to believe that if we indulge in the cliché of decentralisation that it is some kind of panacea, decentralisation to the various State Governments, decentralisation to the *panchayats*, with their utter incompetence, will create a gar-

den of Eden in this country. I do not accept these clichés in the face of facts. I do not know whether my interpretation of the Constitution is correct, but I have sought to look at some of the provisions and the cognate or related provisions to entry 33, and I cannot find a single reason as to why anybody can take exception to this as being contrary to the intention of the framers of the Constitution. Perhaps only article 369 was looked at and it was argued conversely. Article 369 says that this authority should vest in the Centre for a period of five years and it is argued that, therefore, conversely at the end of five years, this authority should not vest. I believe that is not an acceptable proposition. I have looked at entry 52—perhaps the Minister has not seen it—in the First List, which says “Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest”. Any industry under this, if it is declared by Parliament to be expedient, comes, according to my reading, under the control of the Union. As soon as Parliament expresses its opinion that it is expedient that a particular industry should come within the control of Parliament, then that has to be read conjointly with the second part of entry 33 in List III, which means that automatically it is transferred to the Concurrent List. The intention of the framers of the Constitution is to be found in this particular entry. It is not only untenable but preposterous to suggest that the framers of the Constitution purported or attempted to legislate for every exigency or contingency with regard to every industry in the country. Here was an overriding power given to Parliament to declare any industry as being expedient to be brought within the control of the Union. My own reading is that once that is done, automatically that particular industry should come in the Concurrent List, subject of course to the majority vote of the House. As a matter of fact, I find that the provision in article 368 for getting the consent of the States is

inconsistent with this provision, because my own reading is that the framers of the Constitution intended that as soon as Parliament consider any industry to be in such a condition that control by the Union would be expedient, then immediately it would attract the provision contained in entry 33 in List III and it would automatically, in terms of entries 26 and 27 of List II, be part of the Concurrent List. That, to my mind, was the scheme of the intention of the framers of the Constitution and I think it is absolutely untenable and preposterous to suggest that the framers of the Constitution did intend to exhaust the list of industries and demarcate finally and for all time the respective spheres of authority of the Centre and the State Government.

Shri S. S. More: Why this proviso to article 368?

Shri Frank Anthony: That is my difficulty. I am finding it difficult as a lawyer to reconcile this. I say that the overriding intention is clear. We are not endowed with prophetic or divine powers and we find that this overriding power must be given in the case of industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest. That is, Parliament declares any industry, then immediately in terms of entry 33, it comes into the Concurrent List. My own reading is that that should have been sufficient to have given us authority to transfer these industries from the State List to the Concurrent List. I find some conflict with regard to this proviso requiring the ratification of the States, but even if we do concede this to that extent we have to respect article 368. We may respect it and require the consent of the necessary number of States. If you read the commentaries, you will find that there is no semblance of an authority for the contention that the framers of the Constitution never intended to attract the provision in entry 33.

Shri Raghavachari: Does the hon. Member think that foodstuffs and cattle fodder come under entry 52?

Pandit Thakur Das Bhargava: Cattle is not mentioned but stock cattle is mentioned in this article and so fodder does not necessarily come in.

Shri S. S. More: Fodder goes with cattle. (*Interruptions*).

Shri Sadhan Gupta (Calcutta South-East): In considering this Bill, I do not proceed on the basis that the Constitution is inviolate and that it should never be touched. There I agree with Mr. Frank Anthony, and as a matter of fact, I go even beyond him, because I do not even agree that the fundamental rights conferred are necessarily inviolate. Under the Constitution we have the fundamental right not only of various freedoms, not only of equality, but we have the fundamental right of being detained by preventive detention, and we have the fundamental right to pay compensation, however unable we are to pay compensation and however necessary it may be, in the interests of the country, to take over property without compensation. It is in fact my very charge against the Minister that other amendments to the Constitution might have been brought, amendments which are very necessary in the interests of the country, amendments which would remove the obstacle that has been created by the compensation provisions towards taking our country along the broad road of progress, amendments which will enable us to release our economy from the vicious grip of foreign and particularly British industrialists and from the vicious grip which landlords have had on the agrarian economy. On the other hand, we are forced to pay compensation to the British industrialists if we want to take over their undertakings. We are forced to pay compensation to the big landlords if we want to take over their lands for distribution to the peasantry; and that way it is ensured that we will never find the money for the compensation and if we do find the money for the compensation, we will ruin our peasantry, we will ruin our people, in the process.

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I have not the time nor the inclination, in connection with this Bill, to go into the details of that thing. It is only sufficient to say that if we want rapid industrialisation of the country, if we want to emancipate our agrarian economy from the position where productivity cannot be increased, if we want to solve the unemployment problem, and, in a word, if we want to create a situation in which every person in the country will be assured a square meal a day, will be assured that he will have enough of the wherewithal to clothe himself and his family in a manner at least remotely resembling respectability,—if we have to ensure that situation—there is no escaping the fact that we will have to release our economy from the grip of British capital and from the grip of landlords. Now, we cannot do that without compensation, and an amendment should have been brought forward in that respect.

Mr. Chairman: May I draw the attention of the hon. Member—I have repeatedly explained—to the fact that only those items on which the Constitution has applicability here, need be referred to?

Shri Sadhan Gupta: I have finished that part. Anyway, I say that I am prepared to treat every provision of the Constitution on its merits, and on that basis, on sheer merits alone, I am prepared to consider whether a particular provision should be treated as inviolate or should be amended. Now, on the basis of merits alone, I voice my emphatic opposition to the Bill. The hon. Minister, while moving his motion, has made this point a reason for bringing in the Bill, namely, the fact that the period prescribed by Article 369 is going to expire, and therefore, apparently Government will be very helpless to centrally control the articles mentioned therein. I do not propose to deal, at this stage, with the wisdom

or unwisdom of Central control *versus* State control. I do not propose to go into a dissertation over what should be centrally controlled, how much should be Centrally controlled and how much should be State-controlled. But one thing is clear. We are for the autonomy of the States; we do not have that contempt for autonomy on the grounds propounded by Shri Frank Anthony, because we think that it is not reasonable. We cannot consider the question of State autonomy from the point of view of the worthiness of the State Governments or the Central Government, for the simple reason that there is no guarantee, either that the Central Government will remain as worthy as it is for eternity or whether the State Governments will remain what they are for eternity. It depends on the kind of people that administer Government; and as long as this kind of a ruling class, this kind of society exists, as long as the State and the Central Governments continue to be formed under this kind of situation, it is only a guarantee that every Government, whether State or Central, will have more or less corruption. Therefore, I do not look at the question of controls in the light of State *versus* Central powers, from the point of view of corruption. The only way to look at it is to realise that there is a large amount of diversity in India and in order to satisfy the aspirations of such diverse elements, the largest measure of autonomy should be provided, and the autonomy should not be lightly interfered with. But that is being done in the name of the expiration of the period prescribed in Article 369. Let us see how this particular argument is valid. Why was Article 369 enacted? Not for the purpose of giving the Centre the power to control those articles, but to give that power only for a transitional period. The five year period which the Article mentioned was only an estimate of a period by which the new set-up was supposed to come into being. Let us not forget that whether Article 369 is there or not, the Centre

has power, subject to certain conditions, to enact laws not only in regard to foodstuffs or oil-seeds or oil-cakes or raw jute, but in regard to anything under the sun, provided the conditions prescribed by Article 369 are fulfilled. The Council of States may, by a resolution, declare that something is of national importance, and the Central Government may make any law under the sun in order to exercise control over that matter. Therefore, the Central Government has the fullest powers. Why was Article 369 enacted? It was enacted for the simple reason that when the Constitution came into force, there was no Council of States and nothing to enable the Central Government to exercise controlling powers. There was nothing to enable the Central Parliament to exercise law-making powers if something should become of national importance. If you look through the transitional provision, you will find that it has been stated that the Provisional Parliament would do the duty of the present Parliament. So many other transitional provisions have been made, but there is no provision to say that this particular body will do the duty of the Council of States. Therefore, as the Central Government had no weapon to control anything of national importance, as the Parliament had no way of legislating upon something of national importance, Article 369 laid it down that for five years, which obviously was the time estimated for the completion of the elections for the formation of the two Houses of Parliament, and so forth, there should be power vested in the Central Government to control certain duties, and there should be the power in the Provisional Parliament to legislate on certain matters which were thought to be of national importance and which were thought to continue to be of national importance for some time.

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I do not propose to go, at this stage, into the wisdom or un-wisdom of enumerating these things. But that

is what the Constituent Assembly considered and that is why article 369 was enacted. Now, if the time limit has expired. Government has nothing to fear. It has only to submit a resolution before the Council of States, have it debated for 2, 3 or 4 hours and then everything will be all right. They will have the power. What is the objection in taking that House into confidence? Why make an amendment which will for eternity deprive the States of the exclusive powers which they, today, have? Why should you make an amendment when you have deliberately framed a certain Constitution? You have deliberately given certain powers to the States; you deliberately recognised the need for granting autonomy in respect of these powers. Then why do you now make an amendment which will eternally take away that exclusive power of the States and make it subject to the interference of the Centre eternally?

Pandit Thakur Das Bhargava has brought out an argument, a very ingenious argument, that it is necessary in the interest of planning; that we will continue to have plans and therefore, it will be necessary to continue control on commodities. I am not very much enthused by these plannings. We know that as long as this Government remains, as long as this social structure remains, where the vicious group of foreign capital has its strong grip, where landlords cannot be deprived except by compensation although they had more than realised their share by the exploitation of the people—as long as this state of affairs remains, planning can never radically improve the situation in the country. As far as the merits are concerned, I would not agree to part with the State's autonomy in the interest of planning by this Government.

Let us examine the question of planning. It is true and it may be necessary to plan and plan again and again; a second, third or fourth five year plans may be necessary. But

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what is the object of planning. The object of planning is that we should be self-sufficient in all things; we should plan in such a way that it would be possible for us to gradually wipe out our deficits in things we are short of today and for that reason we should not depend upon planning eternally. The First Five Year Plan might cure some of the ills and some of the shortages. The Second Five Year Plan might cure some other shortages; the third may make the country self-sufficient in everything; the fourth may make the country more than self-sufficient. This is the way a plan is expected to progress. Therefore, when deficits are wiped out the need for Central control evaporates. I would have understood that argument although I would not have accepted it.

If it was suggested that in the interest of planning temporary provisions are being made, temporary expedient is being adopted, I could have understood it. But, No. It is being adopted as a permanent measure; it is being imported into the Constitution eternally as long as this Constitution is going to last. That is why I cannot appreciate the argument which is certainly not the argument of the Government. If the Government were aware of such an argument, if the Government thought that planning was the real genesis of this amendment, Government would have come with that argument before Pandit Bhargava could think of it.

He said that at the time when the Constitution was framed there was no idea of planning. I join issue with him. The idea of planning was with the Congress ever since 1938 when the National Planning Committee was set up with Prime Minister himself as its President. Planning has been the pet idea of the Congress ever since. Planning was in the air when the Constitution was framed. You will remember that there was the Tata Birla Plan and this plan and

that plan, the Post-war Reconstruction Plans and every thing of that kind. Therefore, it could not be suggested that the framers of the Constitution were not aware of planning.

These are the grounds on which I oppose this amendment. This amendment is entirely uncalled for. There are many amendments which might have been brought but which had not been brought. This amendment only needlessly interferes with the powers of the State legislatures; these were given deliberately to the State legislatures by the framers of the Constitution, given deliberately with the background of all the experience, the experience in the control of every one of the articles mentioned in the Bill and particularly with the experience of the control of foodstuffs behind them, with the experience of the huge famine in Bengal and with the experience of chronic shortage at the time when the Constitution was being framed and in the background of the Prime Minister's then declaration that the food problem must be treated on a war footing and must be solved by 1951. Therefore, there is no sense in arguing that these things were not thought of and it was only inadvertently that this important power was conferred on the States. So, sir, I would strongly oppose this amendment and request the House to reject it altogether.

Mr. Chairman: How much time will the hon. Minister take for his reply?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): The Chair may call me at 1-30.

Mr. Chairman: We have to close this discussion at 1.55.

Shri T. T. Krishnamachari: I will try to finish in about 20-25 minutes.

Shri C. C. Shah (Gohilwad-Sorath): Mr. Chairman this Bill is in a way a simple measure in that it seeks to amend only one entry in List III of

Schedule 7. No doubt it is an amendment of the Constitution technically speaking and to that extent it is an important measure. But comparatively speaking, I submit that this amendment is of a very minor character. Yet my hon. friend, Mr. Asoka Mehta thought that this Bill goes to the very heart of our Constitution in that it seeks to disturb the distribution of powers between the States and the Centre. But that distribution is already there and the disturbance now sought to be made by this is, I say, comparatively of a minor character. Those who have opposed this Bill have done so on the ground that it is an encroachment by the Centre upon the powers of the States and they have brought in the name of State autonomy.

It is relevant to point out that the States were consulted and except only one State which has opposed, all have agreed. Secondly, as was rightly pointed out by Pandit Thakur Das Bhargava, under article 368, the States will have another opportunity of fully considering this Bill as passed by this House and it is only when one half of the States—Parts A and P States—ratify this measure, this will become effective. Therefore, the States were consulted both before introducing this Bill and again when the Bill is passed they will be consulted; and the legislatures of each of these States will be called upon to ratify this Bill. If one half of them is not prepared to accept it, it will not become effective. Therefore I presume the States will take care of themselves completely. Yet it is also our duty to consider whether this is such an encroachment upon the powers of the States that we should not pass this measure at all or that the Parliament should not call upon the States to ratify this measure.

I respectfully submit that the opposition to this Bill is based upon a certain misconception of the character of our Constitution. It is no doubt in name federal, but it is in a sense

more unitary than federal, and it is none of that type of federal Constitutions where the powers are so completely defined that there is no occasion for either one encroaching upon the other. In fact those who talked of State autonomy and the powers of the States presumed as if independent sovereign States had come together to form a Federation and have delegated certain of their own powers to the Federation. This is an entirely wrong conception, I submit. If we look briefly at the history of how this Constitution came to be written, or the manner in which the whole country was governed until this Constitution was framed, we will find that we never had a Federal Constitution in that manner. It was only at the Round Table Conference that the idea of a Federation came into being when the Princes agreed to come into the Federation, only on certain conditions, namely, if the Federation had limited powers. The result was the Federal Act of 1935. That Federation never materialised, and we continued to be governed in the way of a unitary government with devolution of powers to the States as envisaged by the 1919 Act.

We began to frame this Constitution in 1946. That was a time when the Muslim League and the Princes were strongly opposed to giving the Centre more power than they agreed to, namely on three limited subjects, that is, Defence Communications and Foreign Affairs, and no more, and they wanted that all the residuary powers should remain with the States.

We began in 1946 under that situation. The partition of the country entirely changed the whole situation. The opposition of the Muslim League was no longer there. And the reasons which induced us to create a weak Centre with very limited powers, no longer existed. And therefore, as you will see from the debates of the Constituent Assembly itself, gradually the conception of a Federation with very limited powers

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gave place to a conception of a Centre which had unlimited powers and which was very strong and which was intended to be strong and powerful.

The opposition of the Indian States was overcome by the gradual absorption of all the Indian States, and that opposition also no longer remained.

Therefore, though we had started on a journey which must result in a Constitution of this character, there were many even at that time who thought that we should have a unitary Constitution rather than a federal one. Therefore, all those conceptions of State autonomy and States having unlimited powers save those that are delegated to the federation do not come into the picture in considering a Constitution of this nature. We have deliberately embarked upon an experiment of a Constitution in which we want that the Centre should be as strong as possible, and we have therefore deliberately given the Centre as many powers as possible and purposely left all residuary powers with the Centre. I therefore submit that the idea of State autonomy or the States' powers being encroached upon is a totally wrong approach, and it is desirable that we should disabuse our mind of that kind of approach. Undoubtedly before independence we talked of provincial autonomy. We asked for provincial autonomy. The reason was that we did not at that time hope to receive or get real and effective power at the Centre. But we wanted to get some power somewhere and therefore we asked for provincial autonomy. But if we had any hope of getting real power at the Centre itself, then there was no occasion to ask for provincial autonomy. Therefore those ideas of provincial autonomy or State autonomy which were in a different context altogether before Independence, no longer exist today. And the States are not in any manner independent or sovereign States as

we think of them in federal Constitutions of other States. But even in other States where there are federal Constitutions, where even residuary powers are left with the States and not with the Centre, experience and history has shown that gradually it is the Centre which becomes more powerful rather than the States. And in the world we live today that is inevitable. Considering both the internal and the international situation, no State or Government can exist, I submit, which has a weak Centre which cannot exercise all the powers of a State whenever it is called upon and it is necessary to do so. I mean it may be very good to talk of decentralisation. The theoretical idea is very good, that we should have decentralisation. But in the situation existing today I think it will be wrong, in the name of decentralisation, to say that we should have a weak Centre which cannot come to the rescue of the country whenever it becomes necessary so to do.

Sales tax, for instance, is a classic example. My friend Pandit Thakur Das Bhargava referred to it.

Mr. Chairman: Let us not have a discussion as to the nature of our Constitution.

Shri C. C. Shah: That is the real opposition, that the powers of the State are being encroached upon by the Centre.

Mr. Chairman: It is unitary according to some. According to some it is federal. But probably it is none of the two.

Shri C. C. Shah: Well, I have done with that part of the argument. I was speaking about sales tax which is a classic example, of what chaotic conditions can arise when a subject which essentially is Central and which must be centrally dealt with is left to the States. The judgment of the Supreme Court has created a situation which is in my opinion intolerable. The Centre, I believe,

is trying its best to request the States to fall in line with a uniform policy. But the Centre either is helpless or does not want to be firm. But I do submit that this is an occasion when the matter must be expeditiously and calmly considered, because the entire business community is harassed and worried about the manner in which sales tax is recovered by various States. I say that is an illustration of the kind of situation that can arise when things which are essentially Central or of an all-India nature are left to the States.

A reference was made to article 249, both by Shri Asoka Mehta and the last speaker, as to why advantage was not taken of article 249. If you refer to that article, it has a very limited application. The Rajya Sabha can pass a resolution, and that resolution has got to be renewed year after year if any legislation passed in pursuance of that resolution has got to be continued. That procedure is both cumbersome and unsatisfactory as we have found, for example, in regard to the Supplies and Prices Control Act, where it has got to be renewed year after year. We are considering a situation which can be of a permanent character. You can never say when in regard to a particular commodity a situation will arise which will need an all-India legislation. You can never say how long that kind of all-India legislation will be necessary. You can never say which is the commodity in respect of which that legislation will be necessary. All that you can provide is to give power to the Centre to legislate whenever it becomes necessary in respect of essential commodities, which will be a legislation of a permanent character and which will not require to be renewed year after year. Article 249 therefore cannot help.

Mr Asoka Mehta complained that no case had been made out for this amendment or for the Centre taking this power.

Babu Ramnarayan Singh (Hazari-bagh West): He is right.

Shri C. C. Shah: Well, I will presently point out that he is not right. I do not know whether he has taken the trouble to read the report of the Commodity Controls Committee. The hon. Minister referred to it, and in order not to take the time of the House, he referred us to certain paragraphs of that report which, he said, will repay amply if we peruse them. I do not want to take up the time of the House myself by reading these paragraphs. But I wish to point out that it was only after a competent committee set up to examine the legislation in respect of essential commodities had made a report, and on the recommendation of that committee, that Government has brought forward this piece of legislation. Because, that Committee, after careful examination, made out a complete case for a Central legislation in respect of essential commodities. That Committee also considered article 249. That Committee also considered the desirability of leaving the powers with the States, and having considered all those alternatives the Committee recommended, not only that entry 33 should be amended but it went to the length of saying that entries 26 and 27 in List II, which gave limited powers to the States, must be deleted and all these powers should be left to the Centre. In the case of raw jute and raw cotton, the hon. Minister himself explained at great length the reasons why they were being included. Only in the case of foodstuffs, my hon. friend Shri Asoka Mehta raised an argument. He said that since the food situation was easing, there was no occasion for the Centre to take these powers. One can never say what the food situation will be hereafter. Even when the States are affected by flood and famine, it is the Centre which is able to help them. Nobody can say what our plight would have been if the Centre had not the powers to deal with the situation in the manner it has dealt with it in the last 5 or 6 years after Independence. It is quite clear that there is an urgent necessity for an amendment of this entry. The neces-

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city of that amendment will become evident if we read entries 26 and 27 of List II and entries 33 and 34 of List III together, entries 26 and 27 of List II are subject to entry No. 33 in List III. There may arise a certain conflict between the exercise of these powers by the States for intra-State trade and commerce and inter-state trade and commerce in these commodities. Even under article 286, when sales-tax was levied, it was provided that sales-tax could be levied only for intra-State transactions, but not for inter-State transactions. If I may say so, the interpretation which we have got from the Supreme Court creates a chaotic situation. Similarly, if any legislation is undertaken by the States under entries 26 and 27 of List II and the Centre undertakes legislation under entry 33 of List III, obviously a kind of conflict may arise. Under entries 52 and 54 of List I, in respect of industries which are declared by Parliament to be industries under the control of the Union, that power is already there with the Centre. In respect of agricultural commodities which are essential commodities and which are of all-India character and importance, the Centre has not got that power today. It is therefore necessary that entry 33 in List III should be amended in order to bring it in line with entries 52 and 54 of List I. I therefore submit that this Bill, though it is an amendment of the Constitution, the amendment is of a minor character and it is both essential and necessary. I therefore support the Bill.

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.—East): As Shri C. C. Shah just now said, really this measure has attracted much attention of this House because this Bill is described as an amendment of the Constitution. But, really we have to see as to what we are going to do by this amendment.

Two points of argument have been advanced by our friends here. The

reply given to the first argument by Shri C. C. Shah is quite complete. As regards the other aspect, my submission is this. It has been said that there is already power in the Constitution under which the Centre can legislate in respect of subjects in which there is an apprehension that the Centre has not got the power. There is no doubt that there are certain provisions by which the Centre has got the power to legislate. We find entry 33 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.”

So, the Centre has got the power to legislate, no doubt. But, in all such cases where the Centre has got powers, they relate only to industries. They do not relate to certain very important commodities which will not be covered by these provisions. Those commodities are really the commodities which have been mentioned in this amending Bill. We have got foodstuffs. We cannot say that foodstuffs are covered by any of the provisions in the Constitution under which the Centre has got the power to legislate. Even so, in the case of raw materials which are produced not by industry, but by agriculture, it will not be possible for the Centre to legislate, if we do not empower the Centre by this Amending Bill. It is not a new thing that we are going to give to the Centre. The Centre has had this power for the last five years. If now the amendment is not made, that power will disappear. The other measures that could be undertaken by the Centre under the provisions in the Constitution would not cover certain cases and therefore it becomes absolutely necessary that at least in these cases, this amendment should be made. As I said in the beginning, it is considered that this is an amendment to the Constitution and therefore, the House seems to think that we are going to do something very

important and something which we should not ordinarily do. I also agree that ordinarily, there should be no amendment of the Constitution. It is not a new thing that we are going to do. There is already provision, there is already power with the Centre under article 369. As the hon. Minister said yesterday, at the time when these provisions were being made, there was a certain section of the House which felt that this provision should have been made for 15 years or a longer period. Of course, it was considered then that it may not be permanently necessary. We find now that it is necessary that there should be a permanent provision for the Centre to legislate in respect of important commodities and there cannot be any commodity more important than foodstuffs. I am sure that foodstuffs cannot be covered by the powers that there are at present which empower the Centre to legislate in respect of all important commodities. My submission is that if not for anything else, for this reason that there are a number of commodities which will not be covered and for which power to the Centre is necessary, it is absolutely necessary that this amendment of the Constitution is made. Therefore, I support this amendment.

Shri T. T. Krishnamachari: I have listened with great attention to the speeches made by the hon. Members. I am grateful to those hon. Members Shri Tulsidas, Pandit Thakur Das Bhargava, Shri Frank Anthony, Shri C. C. Shah and Pandit Munishwar Datt Upadhyay, not merely for the support that they have given, but also for elucidating the points which have been raised by other hon. Members and setting the doubts at rest.

I must at once say that the opposition to this measure, simple as it is, has been directed largely from the point of view that it is the duty of the opposition to oppose. I have no quarrel with them. In fact, if I were in their position—I was in the opposition some years back and I had then taken every opportunity of opposing anything that the Government brought.

Shri Sadhan Gupta: Do you regret it?

Shri T. T. Krishnamachari: I do not regret it any more than I regret my hon. friend interrupting me. We cannot afford to indulge in regrets these days. The life that one lives is lived as a thing of the past. We look to the future, sometimes, some of us look to a future which we probably feel is permanent and real as against what it is today—unreal and extremely evanescent—but values are different in regard to those who are on this side and those who are on that side of the House.

I am very glad that Mr. Sadhan Gupta interrupted me because he has helped me more or less to take up the thread of the argument that he used—an argument which began one way and ended in another way. Mr. Sadhan Gupta had no use for this amendment, but at the same time, he felt amendments were not wrong. So, there is a vital difference of opinion between Mr. Vallatharas and Mr. Asoka Mehta and Mr. Sadhan Gupta, as it ought to be, I think. After all, Mr. Sadhan Gupta's approach to this problem of a Constitution, of a fundamental law, is something totally different from the approach that Mr. Asoka Mehta makes, because Mr. Asoka Mehta believes in a fundamental law. He believes in a democratic method of doing things. He believes in a democratic method of adjusting the rights of persons, adjusting inequalities of income and status. Mr. Sadhan Gupta does not believe in that. He believes in a totalitarian dictatorship which just does what it wants for a purpose which it believes to be right. I fully give Mr. Sadhan Gupta the credit of believing what he thinks as being right, but he believes that what he thinks is right should be believed by everybody else; if they do not believe it, they should be forced to believe it. I can quite understand that Mr. Sadhan Gupta does not want a fundamental law, and it is a thing which I am able to appreciate, but I am not able to approve of his sentiments. Well, it is an off-shoot of the Marxian outlook

devoid of all the niceties of intellectual thought behind Marxian reasoning but represented by a trust of that ideology which is ruthless and which wants to impose its right and will upon an obedient set of people. Well, I have no quarrel with Mr. Sadhan Gupta. He is perfectly entitled to preach his ideology and that is what he is here for. And this is a valuable forum and he ought to use it to the best of his ability and I am very glad to see he is using it. The only trouble is Mr. Sadhan Gupta has rather involved himself in an argument which began one way. He said: "I do not mind the amendment. In fact, I want you to bring more amendments. Why do you not bring an amendment to do away with fundamental rights, so that perhaps people can be put in prison without trial or, perhaps, people's property can be taken away without any compensation whatever." Yes, that is a line of reasoning which, as I have said, I can appreciate, but do not necessarily approve of. But, I must say in all humility that Mr. Sadhan Gupta made a very good speech. I remember a simile used in another legislative forum about seventeen, eighteen years back in regard to a speech made by a man who is a very well-known speaker, the late Rt. hon. V. S. Srinivasa Sastri. My friend Rajaji described that speech as being something which is like a lady's silk umbrella which does not protect the user against sun, wind or rain. Mr. Sadhan Gupta's arguments help nobody here. It is an intellectual exercise, perhaps brilliant, perhaps not, but nevertheless, it did not carry us any further. It did not help Mr. Asoka Mehta who opposed the Bill. It did not help me here who wants the Bill to be accepted by this House. Well, so far for Mr. Sadhan Gupta.

Mr. Vallatharas is not here. He comes from my part of the country and we have some pretensions to intellectualism, and the intellectual, therefore, must provide a dilatory motion and provide arguments for it, even if there is no purpose behind it

all. Well, he said something about the being salubrious or salutary provisions of the constitution or something like that, but about much of what he said I do not think he had any conviction himself. So, I do not think there is any point which I can pick out from argument, even though I read his speech over again this morning, for which I had to provide an answer, excepting that whatever this Government does is wrong. I quite concede that ought to be his line of reasoning.

I take up Mr. Asoka Mehta's point. Mr. Asoka Mehta believes in the sanctity of the Constitution. He thinks the Constitution should not be amended lightly. I say "amen". I believe in the sanctity of the Constitution because I had something to do with it. Maybe as Mr. More would have it I was a cook, maybe I was a Cook's matey, I was a water carrier, it might be I have been anything which the fertile imagination of the indefatigable and irrepressible Mr. More can devise. Nevertheless I had something to do with it. I believe with Mr. Asoka Mehta that the Constitution is sacred, that the fundamental law under the Constitution must be protected, that we who are Members of this Parliament, who have taken an oath to protect the Constitution, must even be prepared to shed our life-blood for it. I have no quarrel with him, but he thought we were dealing with this matter rather lightly. That is where I rather expected a person like Mr. Mehta to give some more thought to it, than to dismiss an attempt made by us in all seriousness—the number of days we have devoted to the consideration of the recommendations of the Commodity Controls Committee, consideration of the replies from the various Governments, and also envisaging the conditions that will come into being if we do not have our Essential Supplies (Temporary Powers) Act in regard to the control of the various commodities which are now enumerated in this particular Bill.

Well, I think, my hon. friend Mr. C. C. Shah pointed out that the recommendations of the Commodities Control Committee were recommendations made in all seriousness after interviewing and discussing the matter with representatives of various State Governments, with the Members of the Planning Commission, with other individuals concerned who are affected by control. The first of their recommendations was that not merely should the powers envisaged by article 369 be continued so far as the Central Government is concerned, but that there should be an elasticity in regard to the powers wielded by the Central Government, and therefore items 26 and 27 of List 2 should be transferred to List 3 so that if an emergency arises the Central Government can legislate about these matters. Well, they probably felt that proposal might not be accepted, and suggested an alteration of item 33 of List 3. I for one, even in the days when we were framing the Constitution had felt that the exclusive field in respect of legislation for the Union and for the States must be kept as far as possible intact. I was one of those who never believed in the twilight zone like the concurrent powers. The exhaustive Concurrent List was devised by the Government of India Act, 1935, arising out of the experience gained by the working of the Constitutions in Canada and Australia where the imprecise definition of the concurrent field has created a lot of litigation. The Government of India Act sought to define the concurrent field. I think we went a little further than the Government of India Act in making that definition very precise.

I would ask hon. Members to look into the provisions of article 73 and the proviso to clause (1).

Article 73 says:

"Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(a) to the matter with respect to which Parliament has power

to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement."

The proviso says:

"Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State specified in Part A or Part B of the First Schedule to matters with respect to which the Legislature of the State has also power to make laws."

So, in order to resolve the conflicts as much as possible, we have provided there in the proviso to article 73, clause (1), that the executive power of the Centre must be limited to those laws in which Parliament expressly says that the executive power may be taken. So, it is not a question of our enacting some laws as a result of this amendment, laws which we can enact by reason of the fact that entry 33 is now enlarged, but we have to see whether we would take the executive power as well.

I did draw attention in my introductory speech to a very wise statement made by the present Chief Minister of Uttar Pradesh, in that discussion that we had with the Chief Ministers of the various Provinces at the time when we were drafting the Constitution, when Pantji definitely stated, well, all that the Centre can do is only to frame a skeleton law and leave, either by delegation of power or by rule-making powers, the execution of those laws in the hands of the Provinces. My hon. friend Pandit Thakur Das Bhargava then amply illustrated that in regard to the Essential Supplies (Temporary Powers) Act, the operation of those laws, excepting in those fields where the Centre was interested, the industries in which the Centre was interested,

[Shri T. T. Krishnamachari] was left to the Provincial Governments, and therefore, the fear that we were going to take away the direction of intra-State trade or business from the State Government was not quite correct.

Let me pose another problem here. It does not really mean that we do not have the powers, even as it is; we do not undertake this amendment, excepting perhaps in regard to food-stuffs. Even there, so far as inter-State business is concerned, article 301 provides us with the powers, if need be, for it says:

"Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free."

And article 302 says:

"Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest."

So, this allows Parliament to impose such restrictions on the freedom of trade as may be required in public interest.

That leads me to the reference made by my hon. friend Pandit Thakur Das Bhargava to the original article 16 which was in the Draft Constitution, and in which a provision similar to articles 301 and 302 was sought to be put in the fundamental law of the land. We then felt that it would be needlessly inviting a lot of friction, and litigation by this clause being in the fundamental rights and I think we felt that it was much better to put it in the Chapter on trade and commerce rather than in the Chapter on fundamental rights.

If inter-State trade and commerce is to be regulated by the Centre, there is no denying that the Centre can also, to some extent, to the extent necessary for regulating inter-State trade and commerce, go into the

intra-State field. The position in regard to the United States Constitution, where there is no concurrent field defined, and where the demarcation between the powers of the Central Government and the States, is left very largely to judicial decisions, is an indicative of the fact that where obligation is laid on the United States Congress to regulate inter-State trade and commerce, it does not remain there. I am quoting from Willis' *Constitutional Law*.

Willis, in page 306 of his *Constitutional Law* says:

"When Congress may regulate intra-State commerce as an incident of inter-State commerce, and when the States may regulate inter-State commerce under either a concurrent power or the general police power is known only by the United States Supreme Court."

That is a position which we want to save. It is true that we can interfere by means of the powers vested in us under articles 301 and 302. But then you take the ultimate validity of any action, that the Central Government take, to a region where a certain amount of uncertainty devolves on it.

The other point was made by my hon. friend Shri Frank Anthony. He raised a question whether the Central Government have not got powers now under entry 52 of List I, which makes them declare any industry to be of national importance, and therefore, within the purview of the Central Government, and to that extent, subtracts from the content of entry 24 of List II, in regard to the powers enjoyed by the States. He is perfectly right, but I see no conflict in the possibility of an extension of the area of powers enjoyed by the Centre under the use of entry 52, to a provision of article 368 where, whenever a matter which is within the State List is interfered with, ratification is necessary by the States. A mere extension of powers of the Centre under entry 52 does not invoke an amendment of the Constitution, and so long

as an amendment of the Constitution is not invoked, the ratification of the States is not necessary. It may be that there is no limit to the extension of Union power under entry 52.

It is true that the coffee industry is now being regulated by the fact that under entry 52, it is declared to be a matter of national importance. The rubber industry is regulated by the fact that under entry 52, it is declared to be a matter of national importance. The tea industry is so regulated. Therefore, if it is a question of my wanting powers in regard to regulation of the sales of ginned and un-ginned cotton, of oils, and perhaps, oil-cakes and concentrates, well, I think, the powers that I now possess under entry 52 might be projected into the States' sphere, and I might grasp those powers. It may be that the matter will go to court, but I am fairly convinced in my mind that the incidental, ancillary, and supplemental powers that are necessary for the purpose of fulfilling the functions of the Centre will see me through. But what we want here is that the area of doubt should be resolved, and so far as the Centre is concerned, in the concurrent field, the interference of the Centre is either regulatory so that an all-India statute might be observed by all the States, or in times of an emergency where the powers of the Centre in the concurrent field are more than of a regulatory nature, there is no question of the executive power being dealt with by the Centre or not because, whether this Constitution is unitary or semi-unitary, federal or semi-federal, it is quite clear that we have a precise definition in regard to the possibility of the use of the executive power by the Centre. Therefore, unless there is an emergency, there is no point in the Centre attracting that power to itself. The second factor also is that this Constitution has not provided either by implication or by judicial decisions the power enjoyed by the United States Central Government of having federal agencies right through the States. We do not have federal agencies in this coun-

try excepting for purely federal purposes. You have got the Customs Department, you have the Import Trade Control Department, you have an Income-tax Department, you have an Excise Department for purely Central purposes, but you do not have a parallel federal court, and you do not have parallel federal agencies running along with State agencies. I do claim, therefore, that the Constitution-makers have precisely defined the field in which the Centre can operate. All that we plead here is not that the powers cannot be taken by other means than by this amendment but a straightforward method of exercising these powers is the wiser one. For instance, if we levy a cess on oil mills for the purpose of keeping the Oil-seeds Committee going, we do so by means of a declaration in terms of entry 52 of List I. Well, it can be extended for other purposes, and we can also levy a cess from rice-millers, for the purpose of developing the rice industry, or for the purposes of controlling the expansion of rice mills. That could be done under the use of the powers of entry 52. It does not mean that we are without resources. But it is possible that we use those resources by interpretation, and we might be enacting a legislation which is colourable, and we do not want to do it in a matter where the needs are precisely defined, are very well-known, and have been the subject of investigation by a committee, and we are following a pattern where the Constituent Assembly had envisaged a continuance of the old Act enacted by the Interim Government, in 1946, under article 369.

The other point made by my hon. friend, Mr. Asoka Mehta, was that so many items had been mentioned in article 369; why should they have been so mentioned? Well, it is not that we were unalive to the fact at that time that we need not mention the names of articles which could be covered by legislation under item 52 or item 54 of List I. Well, it might be that the Constituent Assembly was very busy and could not go and exa-

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mine all the existing status or that the Constituent Assembly felt that the moment you took away powers under these heads, the legislation that was in operation would become inoperative and the Provisional Parliament would have no time to enact legislation under powers vested in the Centre under item 52 or 54 of List I of the Seventh Schedule. This is a matter of convenience rather than a matter of logic. So I must submit in all humility that the mere fact that article 369 covered a number of items which legitimately fell within the limits of the Union sphere does not mean that there was any thoughtlessness about it; it was a matter of convenience. Nor do I agree that the experience so gained in regard to the utilisation of the powers under article 369 should not be put before this House for more or less a permanent amendment of the Constitution within a very restricted and limited field. Hon. Members who read the items (b), (c), (d) and (e) will find that so far as (d) and (e), are concerned, they are industrial raw materials. It is not necessary for me to ask hon. Members to imagine what will happen if there is inter-provincial jealousy in respect of the industries to which they provide the raw materials. Suppose raw cotton is produced in Hyderabad and Madhya Pradesh and the cotton is going to be consumed in Bombay, I will ask my hon. friend Mr. Asoka Mehta, who knows more about the textile industry than I do—after all, my experience of the textile industry has been from the top for a brief period of 2½ years whereas his experience is of over a decade. Suppose the Madhya Pradesh Government says: 'We are not going to send the cotton to Bombay?'. We in the Centre will not allow them to export; we would want them to send it to Bombay. But suppose we are faced with a situation of this nature, what about the labour situation that develops therefrom? It is a problem which he will have to share along with the Bombay Government and also the Central Government. He will, there-

fore, understand the logic of it, the logic of having to control the raw material of an industry which is of an all-India character where, as I said in my introductory speech, the area where the industry is situated does not coincide with the area where the raw material is produced.

Then what is the residue left in the Bill. The residue happens to be foodstuffs. I maintain in all humility that in the matter of foodstuffs, we cannot afford to gamble. It may be that tomorrow something might happen when we will probably have to reimpose controls. There is no point in flinging at my face or at the face of my colleagues here that my colleague, Shri Kidwai, feels the position all right. I think he is quite correct; he is quite correct in feeling that the position as it obtains today is all right. But there might come a time conceivably, as we do not know when floods, famines, typhoons and tidal waves occur, when there might be a food shortage in one area. We still have deficit zones and surplus zones, from one of which we have to send to the other. I think in a matter like foodstuffs, there is no use in saying 'In an emergency, use these powers; let yourself open to a suit in a court of law; to declare that your powers are not proper'. After all, in America, the New Deal was undertaken in an emergency. My hon. friend should know what happened when the courts set aside the various provisions of the New Deal. We do not want to experiment with human lives; we want to be prepared for all contingencies.

Acharya Kripalani (Bhagalpur cum Purnea): What about article 249?

Shri T. T. Krishnamachari: Article 249 happens to be an article which was devised by some of us; it was taken from the Government of India Act and slightly modified. I am not particularly happy about article 249. Article 249 can only be used in the case of something that occurs temporarily. I might tell my hon. friend—he was not here then—that in the first

year that I came here, I had to continue the Supply of Goods and Prices Act under article 249. Within the earliest possible time, I said, 'No, I am not going before the House even though there will be a little inconvenience to Government'. We cannot use a temporary provision for a contingency for which we have to be prepared all the time and which might overtake us at any time. As a person who has some administrative experience, I say that article 249 will not fill the Bill. That is all I have to say for the present.

Mr. Chairman: Now, as already announced, the debate on this motion regarding the Bill to amend the Constitution is now concluded and I will put it to the vote at the end of the day.

STATEMENT RE: INDIAN TARIFF (SECOND AMENDMENT) BILL

The Minister of Finance (Shri C. D. Deshmukh): With your permission, I rise to make a brief statement in regard to certain matters covered by the Bill which is being introduced by my colleague, the Minister of Commerce and Industry, presently. This Bill is a Tariff Bill which contains several items on which duties have been raised, in some cases steeply. Some of the more important items on which duties are being raised are pencils, old newspapers, fermented liquors, woollen fabrics, wines, vacuum flasks, razor blades and playing cards. Apart from the implementation of the recommendations of the Tariff Commission, in certain cases, the immediate need for a review of the duties charged on the goods imported arose from the fact that at the recent inter-session committee of the GATT, we were able to secure certain relaxations in respect of a few items on which we had previously agreed to bind the import duties at a comparatively low rate. The Finance and the Commerce and Industry Ministries have also been constantly examining the question of incidence of duties on imported articles primarily with a view to tapping new sources of revenue. The collection of customs duty during

the last five months amounted approximately to Rs. 60 crores as against our budget estimate of Rs. 177.5 crores for the whole year. Seasonal shipments of commodities like tea will take place only hereafter and there is generally a greater tempo of import and export activity in the later months of the financial year, and it may be expected that duty receipts will be proportionately higher in the coming months. But even after making allowance for this, I feel eventually the actual collection might fall short of our budget estimates.

As the House is aware, we had to reduce export duty on certain commodities like oils and oilseeds, manganese ore, etc. wherever these duties could not be sustained. All this has, therefore, made it necessary for Government continually to explore further sources of revenue.

Another consideration has been that our import policy imposing quantitative restrictions on several commodities by the fixation of small quotas has had the effect of creating artificial scarcity and of needlessly raising the consumer price of such articles. The allotment of small quotas has had the effect of preventing newcomers from coming into the trade, as a result of which those established in the line have managed to gather excessive profits. A policy of restrictionism of this nature can be justified by a chronic position of imbalance in our balance of payments of a kind which no longer obtains. A change in the direction of relaxing some of these restrictions was, therefore, imperative and that is what we are seeking to achieve by this Bill. The umbrella incidentally provided by quantitative control for the products of some of our nascent industries against foreign competition, apart from such cases as go to the Tariff Commission for protection, will now be furnished by the high rates of duty, and at the same time, our import policy would be freed from unduly restrictive quotas. We have given considerable thought to this aspect of the question and it was with a view