

THE CONSTITUTION (THIRD
AMENDMENT) BILL

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to move:

"That the Bill further to amend the Constitution of India, be referred to a Joint Committee of the Houses consisting of 36 members; 24 from this House, namely, Shri Jawaharlal Nehru, Shri Rafi Ahmed Kidwai, Shri Upendranath Barman Shri V. B. Gandhi, Shri Kotha Raghuramaiah, Shri Narhar Vishnu Gadgil, Shri Tek Chand, Shri A. M. Thomas, Shri S. Sinha, Shri C. D. Pande, Shri Raghur Sahai, Shri Shriman Narayan Agarwal, Shri R. Venkataraman, Shri Nemi Chandra Kasliwal, Shri Raghavendrarao Srinivasrao Diwan, Shri Liladhar Joshi, Shri Ranbir Singh Chaudhuri, Shri K. S. Raghavachari, Shri Bhawani Singh, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Dr. D. Ramchander, Dr. A. Krishnaswami, and Shri T. T. Krishnamachari and 12 Members from the Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the 17th September, 1954;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to the Rajya Sabha that the Rajya Sabha do join the said Joint Committee and communicate to the Lok Sabha the names of members to be appointed by the Rajya Sabha to the Joint Committee."

[SHRI PATASKAR in the Chair]

In moving this motion I would like to take this House to the genesis of this Bill which has to be traced to the provisions of article 369. For the sake of making the position clear I would beg leave of the House to read this article. Article 369 reads as follows:

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

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates, coal (including coke and derivatives of coal), iron, steel and mica;"

—(b) has no reference really—

"but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof."

It happens that the powers vested in the Central Government under article 369 lapse on the 25th January 1955, and with it will lapse all legislation passed under the legislative powers conferred on Parliament by this article. But I would like to say that it does not mean that Parliament is without the necessary authority to legislate in respect of many of the items covered by article 369. Under item 52 of List I of Schedule VII, industries which are declared by Parliament by

law to be of national importance come under the parliamentary legislative jurisdiction, and the corresponding provision in item 33 of List III of Schedule VII, which is now the subject of amendment, permits Parliament to legislate in all matters connected with trade and commerce and distribution of products of industries which are covered by item 52 of List I.

This, the House will understand—I refer to the power under item 33 of List III—is a power which is wielded both by Parliament and the States Legislatures. In fact item 33 and the following item, namely item 34 which deals with price control, allow the States to legislate in regard to intra-State activities, and, at the same time, permit Parliament to undertake legislation in regard to commodities covered by item 52, and in regard to prices in respect of all commodities whether covered by item 52 of List I or items 26 and 27 of List II. That is the position as it stands today apart from the temporary powers conferred on Parliament by article 369. As I said at the beginning, the issue now before the House arises out of the fact that the temporary powers under article 369 over the residuary items enumerated therein go out of the purview of Parliament and its legislative control after 25th January, 1955.

I would like to take the House into the history of these provisions as they were discussed in the Constituent Assembly. Even at the time when the present article 369, then article 306 in the Draft Constitution, was being considered by the Constituent Assembly, there was a body of opinion which felt that limiting the Parliamentary jurisdiction in respect of commodities like foodgrains and other agricultural products for a period of five years was taking a short view of the question. The basis of the decision of the Drafting Committee could be understood from para. 14 of the letter written by the Chairman of the Drafting Committee to the President of the Constituent Assembly. In that letter, the Chairman said:

"In view of the present abnormal circumstances—I am quoting from

the Chairman's letter—which require control over essential supplies, the Committee has provided that for a term of five years from the commencement of the Constitution, trade and commerce in, and the production, supply and distribution of, certain essential commodities as also the relief and rehabilitation of displaced persons shall be on the same footing as Concurrent List subjects. In adopting this course, the Committee has followed the provisions of the India (Central Government and Legislature) Act, 1946."

I am making reference to this letter of the Chairman in order to point out that the recommendation of the Chairman of the Drafting Committee to the President of the Constituent Assembly was based on a previous enactment, namely, the provisions of the India (Central Government and Legislature) Act of 1946, which gave life in regard to the power exercised by the Central Legislature over those matters for a further period when the war legislation came to an end.

It is not often that one looks back to what happened during the time when the Constituent Assembly was discussing. But, it did give me a certain pleasure, when I was looking into the proceedings of the Constituent Assembly, to find that a friend of ours, who is a Member of this House, Shri Brajeshwar Prasad had the far-sightedness to feel at the time when article 306 of the Draft Constitution was being considered, that the duration of the validity of the provisions of that article should be extended from 5 to 15 years. In fact, at that time Shri Brajeshwar Prasad expressed the opinion that in matters like foodstuffs, minerals, etc., the power of the Government of India should be kept intact. Any way, the Constituent Assembly did not accept the suggestion made by Shri Brajeshwar Prasad.

Even prior to this particular article being taken up for consideration by the Constituent Assembly, in the several discussions that took place in regard to the distribution of powers

[Shri T. T. Krishnamachari]

between the Centre and the States, it was felt that **Parliamentary** control should be provided over essential commodities other than those expressly covered by item 52, List I and item 33 of List III. I remember the discussion that took place between the Drafting Committee of the Constituent Assembly and the Chief Ministers of the States and the Ministers of the Central Government, and I would like to recall that our late lamented Dr. Syama Prasad Mookerjee, who was then Minister of Industry and Supply, expressed himself in those discussions that control of Parliament should extend not merely to trade and commerce and the products of the industries which were within the legislative competence of Parliament, but should extend also to other commodities, the control of which was declared by Parliament by law to be expedient in the public interest. That is, he felt that Parliament should have the power to extend the range of control over commodities, other than those covered by item 52 of List I, Schedule VII. There was a considerable amount of discussion on this point at that particular meeting with the Chief Ministers of States, and it was then decided that an item similar to item 33 in List III of Schedule VII should be provided and might prove adequate. The present Chief Minister of U.P. at that time very aptly indicated that though the Centre might have legislative powers in regard to some of these commodities, these powers have been and are being exercised only for the purpose of preparing a skeleton legislative measure, and that the provinces are left to deal with the rest, as the provinces made rules and the rule-making even in regard to matters about which the main legislative power was with the Centre. No conclusions were reached in that meeting in regard to augmenting the powers of Parliament in respect of all products which Parliament might consider at some time or other to be of national importance.

The idea of extending the powers of the Centre in respect of the develop-

ment of agriculture including animal husbandry, forestry and fisheries and supply and distribution of food was again mooted in the Constituent Assembly on the 31st August, 1949 by Shri Shibbanlal Saksena, following as he then said, a minute which was prepared by the then Ministry of Agriculture of the Government of India. In another amendment moved by him on the same date, Shri Shibbanlal Saksena suggested the inclusion of an additional item in List I besides item 52 which covered not only goods which are the products of industries whose regulation was under the control of the Union declared by law necessary and expedient in public interest, but also any other goods whose regulation is similarly declared by Parliament by law to be necessary or expedient in public interest, that is, more or less following the suggestion made by the late Dr. Syama Prasad Mookerjee. It is true that the inspiration for that amendment was the minute prepared by the Ministry of Industry and Supply at that time. The Chairman of the Drafting Committee, in replying to Shri Shibbanlal Saksena stated that the first part of his amendment was being put in the Concurrent List which is item 33 of List III and the second part of it was still a matter for discussion between the Drafting Committee and the various interests concerned. No decision had been reached and as such, the Chairman of the Drafting Committee was unable to accept the amendment of Shri Shibbanlal Saksena. I am wearying the House with these details.....

Shri B. Das (Jajpur-Keonjhar): No, no; these are necessary.

Shri T. T. Krishnamachari:..... just to indicate that the makers of the Constitution were not unalive to the need of some kind of Parliamentary legislative control in regard to commodities whose importance is not limited to the intra-State sphere but extends to the inter-State region and is likely to become a matter of all-India importance.

The next stage in respect of the consideration of this matter was when the Ministry of Commerce and Industry appointed the Commodity Controls Committee. This Committee in its report in paras. 36 to 44 has discussed the entire question of the reserve powers of the Central Government to enable it to exercise control over any commodity at any given time. A reading of these paragraphs would, I humbly suggest, amply compensate the effort undertaken. This Committee held that entry 33 of the Concurrent List provides only a partial solution of the problem as it does not and cannot cover many important commodities like foodstuffs. They have further stated that the existing provisions of the Constitution do not permit the enactment by Parliament of a permanent and comprehensive law of control in relation to all commodities. But, the need for such a law was in their opinion urgent and pressing and the Committee after carefully considering all its *pros* and *cons* unhesitatingly made a recommendation that the Constitution should be suitably amended to confer on Parliament the necessary legislative power as it was felt by them that the control over essential commodities should be regulated on an all-India basis.

They, therefore, recommended that entries 26 and 27 of the State List should be transferred to the Concurrent List, and they further stated that if, however, it was considered that an outright transfer of entries 26 and 27 from the State List to the Concurrent List is for any reason not possible or practicable, they would suggest in the alternative that the Constitution be amended at least to such an extent as may be necessary for conferring legislative power on Parliament in respect of foodstuffs, cattle fodder, raw cotton, cotton seed and other agricultural products.

Thereafter, the Government of India invited the various State Governments concerned to express their views on the recommendations of the Commodity Controls Committee in a

communication addressed to them on the 12th September, 1953. Some of the State Governments had sent replies. Assam, Madhya Pradesh, Madras, Punjab, Pepsu, Rajasthan and West Bengal did not send any reply at that time, or to that communication, but in a subsequent communication sent by them in August this year, Rajasthan and West Bengal had agreed to the proposal that Parliament might take over the powers suggested by the amending Bill on a permanent basis. Hyderabad, Madhya Bharat, Mysore, Orissa, Saurashtra and Travancore-Cochin had replied to the Government of India's letter dated 12th September, 1953 in the affirmative. The Bihar Government had suggested that power might be taken for a further period of five years by suitably amending article 369 of the Constitution and extending this for another period of five years from the 25th January, 1955. The Bombay Government, in reply to the Ministry's letter of the 12th September, 1953, desired to be consulted when the Centre proposed to legislate in respect of taking over the above powers in respect of the essential commodities, but in a further communication on this subject dated the 20th August, 1954, to the Ministry, the Bombay Government indicated that they were opposed to the proposed measure.

Shri B. Das: Always. Bombay is always opposed. (*Interruptions*).

An Hon. Member: They are always sensible.

Shri T. T. Krishnamachari: Andhra, Madras and Madhya Bharat had written to say that they are considering the matter but they have not finally indicated their reactions.

To sum up, the reactions of the State Governments, Hyderabad, Mysore, Orissa, Rajasthan, Saurashtra, Travancore-Cochin and West Bengal have broadly at one time or other indicated the acceptance of the provisions of the proposed measure. Bombay is definitely against it. Bihar approves of the extension of the

[Shri T. T. Krishnamachari]

powers by another five years. Andhra, Madras and Madhya Bharat are considering the matter. The other Governments have no opinions to offer.

Shri D. C. Sharma (Hoshiarpur): Have the Bombay Government informed the Centre of their reasons for not approving the proposal? (*Interruptions*).

Shri T. T. Krishnamachari: I would like to say a few words on the provisions of the Bill

One important amendment in the Bill that goes beyond the provisions contained in item 33 of List III, Schedule VII as it now stands is an addition of the words in sub-paragraph (a)—I am now quoting the words:—

"and imported goods of the same kind as such products".

i.e., lines 12 and 13 of the Bill. I do not think it is necessary for me to explain the reason for the addition of these words. In the case of many commodities manufactured in India over which some control is sought to be exercised, the products of Indian manufacture do not completely cover our entire needs and some quantity of the same type of goods has to be imported. So, obviously it is impossible to control the distribution and pricing of the goods manufactured in the country if goods that are not within this category, viz., imported goods, do not come under Government regulation. It is not necessary for me to enumerate the type of goods that would be covered by this item as this would be varying from time to time according to the development of the needs of the country. It is, therefore, felt that this addition should be made to paragraph (a) of item 33.

In regard to the other items, I would like to deal first with item (e), viz., the last item, raw jute. I trust that the hon. Members have read the report of the Jute Commission which

gives more or less a bird's eye-view of the position of the jute industry in the country. We only produce a part of the raw material needed by the jute industry. The other part we have to import from Pakistan. The industry is, in what might be called in economic terms, "an industry with an unstable equilibrium" as it depends on foreign markets for the offtake of its production to a large extent. It must therefore be conceded that some form of control over the production of raw materials for this industry is a necessary concomitant for the Centre's control over the industry as a whole. I expect there would not be much of a dispute in respect of the addition of this item to item 33 of List III.

In regard to sub-clause (d), i.e., raw cotton, whether ginned or unginned and cotton seed, the position that I have envisaged for raw jute more or less holds good in respect of raw cotton. The textile industry is of an all-India character. Hon. Members know the degree of control that has been necessary for us to exercise not merely for the sake of that industry alone, but in respect of other ancillary industries like the handloom industry which has an intimate bearing on the development of the textile industry. Here again, internal supplies of cotton are not adequate for our needs. Some form of price control at least to the extent of ensuring a floor price is necessary to provide some incentive for the cotton growers. Distribution control in some form or other has to be exercised from time to time whenever there are indications that there is mal-distribution of cotton, having in view the fact that the consuming industries are situated in particular areas and these areas do not always coincide with the areas that produce cotton. Inter-provincial jealousies in regard to either supply of cotton or the development of the textile industry could not be allowed to play any part in our scheme of things. Here again, I hope the House will not find it difficult to agree that having

in view the fact that the textile industry is declared to be an industry which comes under item 52 of list I of Schedule VII, the raw materials necessary for the industry have to be controlled by the Centre to the extent necessary.

Items (b) and (c) fall into one category. I have only to remind the House of the very intelligent and detailed discussion that took place in this House a few days back on the question of a levy of export duties on rice and groundnut oil. There was hardly any difference of opinion amongst the various Members representing the various sections of the House that took part in that debate that vigilant control has to be exercised in regard to production and distribution of these commodities, and if I attempt to enumerate the need for a continuance of the powers that we now possess in respect of these commodities under article 369, I believe I should be preaching to the converted.

That, Sir, sums up the entire argument in favour of the amending Bill.

My hon. friend Mr. Sharma asked why the Bombay Government refused to agree to the proposed measure. The letter that we received, signed by the Deputy Director of Controlled Commodities, indicated that the Bombay Government felt that these matters should be left to the State for regulation; there was no need for all-India regulation in this respect. Well, we have had other communications from time to time. In fact, one of these communications indicated that in regard to cotton, ginned or unginned, and *kapas*, they may be willing to consider some kind of all-India regulation. That was on a previous occasion. So far as this communication is concerned, it is quite categorical, though it does not go into details.

I hope I have said all that is necessary for the House to appreciate that this Bill is one which we have

to take into consideration in all seriousness and that the powers that Parliament has in respect of the commodities enumerated in this Bill should not be allowed to lapse by the 25th January, 1955.

Shri Raghavachari (Penukonda): Is the hon. Minister...

Mr. Chairman: First, let me put the motion before the House.

Motion moved:

"That the Bill further to amend the Constitution of India be referred to a Joint Committee of the Houses consisting of 36 Members; 24 from this House, namely, **Shri Jawaharlal Nehru**, **Shri Rafi Ahmed Kidwai**, **Shri Upen-dranath Barman**, **Shri V. B. Gandhi**, **Shri Kotha Raghuramaiah**, **Shri Narhar Vishnu Gadgil**, **Shri Tek Chand**, **Shri A. M. Thomas**, **Shri S. Sinha**, **Shri C. D. Pande**, **Shri Raghubir Sahai**, **Shri Shri-man Narayan Agarwal**, **Shri R. Venkataraman**, **Shri Nemi Chand-ra Kasliwal**, **Shri Raghavendrarao Srinivasrao Diwan**, **Shri Liladhar Joshi**, **Shri Ranbir Singh Chau-dhuri**, **Shri K. S. Raghavachari**, **Shri Bhawani Singh**, **Shri Hirendra Nath Mukerjee**, **Shri N. C. Chatter-jee**, **Dr. D. Ramchander**, **Dr. A. Krishnaswami**, and **Shri T. T. Krishnamachari** and 12 members from the Rajya Sabha:

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the 17th September, 1954;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to the Rajya Sabha that the Rajya

[Mr. Chairman]

Sabha do join the said Joint Committee and communicate to the Lok Sabha the names of members to be appointed by the Rajya Sabha to the Joint Committee."

Now, there are some amendments of which notice has been given. There is one amendment by Shri Sadhan Gupta. I think that amendment is out of order clearly. I do not think it needs any argument, because the present Bill only relates to the amendment of the Constitution, so far as entry 33 of List III is concerned, while by the proposed amendment, the hon. Member wants this Bill to be referred to the Joint Committee—

"with instructions to consider, and if thought so advisable, to recommend suitable additions, alterations and amendments to the Constitution with a view to remove therefrom provisions regarding the obligation to pay compensation for acquisition of property so far as foreign owned industrial and commercial undertakings, foreign interests in such undertakings and acquisition of property for distribution among tillers of the soil are concerned."

I think this subject-matter is entirely different from the purpose for which this present Bill has been brought forward. I, therefore, rule this amendment out of order.

Shri Sadhan Gupta (Calcutta—South-East): May I make a submission in this connection? I find it has been the practice in this House to give instructions to the Select Committee to widen the amendments to bills which are before the House. For example, in the matter of the Criminal Procedure Code, certain sections of that Code only were sought to be amended by the bill as it was originally introduced. But when the motion to refer it to the Joint Committee was under consideration, an amendment was proposed to enable the Joint Committee to recommend

amendments to the entire Criminal Procedure Code, and that amendment was accepted by the House and referred to the Joint Committee. The Joint Committee considered that amendment, and of course, they decided that without obtaining the opinions of the State Governments on the other sections which were not touched in the Bill, such amendments should not be recommended. But that is another matter. The point is that the House authorized the Select Committee to go into the amendments of other sections, which were not dealt with at all. That is exactly what I propose in this connection; I want to take this opportunity also of suggesting amendments to the other articles of the Constitution, through the Select Committee, and then a new Bill may be drafted by the Select Committee and sent back to the House.

Mr. Chairman: There have been so many discussions in the past with respect to the widening of the scope of a Bill which has been brought forward to amend an Act, and in certain cases, it was found that it could be allowed as a matter of fact. But here it must be taken into consideration that this is a Bill not to amend an Act, but to amend the Constitution, that makes much difference. While this Bill is in its scope limited to amending a particular entry in List III of the Seventh Schedule, the amendment proposed by the hon. Member deals with so many other matters which have absolutely nothing to do with the amendment proposed by the Bill. Therefore, the hon. Member's amendment cannot be allowed.

Shri S. S. More (Sholapur): The House may reject it, if it so thinks. But as far as the question whether it is or is not in order is concerned, there are so many precedents. Take, for instance, the Preventive Detention (Amendment) Bill. When we started discussing it, the whole of it was kept open by an amendment; and so also, as has been cited by my hon. friend **Shri Sadhan Gupta**, in the case

of the Code of Criminal Procedure (Amendment) Bill as well, the whole of it was left open to the Select Committee.

I could see that the House will not be in a mood to accept the amendment. But I am concerned here only with the question whether it is in order or not. That is the question that is agitating us.

Mr. Chairman: Apart from the mood of the House, it is my duty as Chairman to decide whether it is or is not in order. I realise the force of what the hon. Member is saying. Probably, I have not made myself quite clear in the beginning. It was a different matter, when we were dealing with the Preventive Detention (Amendment) Bill. The question then was whether other amendments could not be moved in regard to that legislation, and the scope was widened in that case. The same thing was done in the case of the Code of Criminal Procedure (Amendment) Bill also. Probably, it may become necessary in certain cases, that when you touch one part of an Act, other parts may be looked into in order to see what anomalies would arise. But so far as the present Bill, which relates to amending entry 33 of List III in the Seventh Schedule is concerned, I think the subject-matter of the hon. Member's amendment is not even remotely connected with entry 33. If, on principle, we have to allow it, then the whole of the Constitution itself may be allowed to be amended. I think there is no need to discuss this matter further.

Shri S. S. More: Your ruling is that it is out of order?

Mr. Chairman: Yes.

Shri Sadhan Gupta: May I make one last submission?

Mr. Chairman: I have given my ruling.

Shri K. K. Basu (Diamond Harbour): It is a revision application.

Mr. Chairman: To my mind, there is no doubt. If I had the least doubt, I would have allowed it to be discussed.

Then, there are two other amendments, one in the name of Shri Vallatharas and the other in the name of Shri Bogawat. Do these hon. Members want to move them?

Shri Vallatharas (Pudukkottai): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 25th October, 1954."

Mr. Chairman: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 25th October, 1954."

There is another in the name of Shri Bogawat. Does he want to move it?

Shri Bogawat (Ahmednagar South): By my amendment, I seek to refer this Bill to a Select Committee of this House only, consisting of the same twenty-four Members. I have got my reasons for doing so. If you will allow me.....

Mr. Chairman: Does the hon. Member want to move that amendment?

Shri Bogawat: Yes. Shall I give the reasons?

Mr. Chairman: Then, he may move it first.

Shri Bogawat: I beg to move:

"That the Bill be referred to a Select Committee consisting of 24 Members, namely, Shri Jawaharlal Nehru, Shri Rafi Ahmed Kidwai, Shri Upendranath Barman, Shri V. B. Gandhi, Shri Kotha Raghuramaiah, Shri Narhar Vishnu Gadgil, Shri Tek Chand, Shri A. M. Thomas, Shri S. Sinha, Shri C. D. Pande, Shri Raghunir Sahai, Shri Shriman Narayan Agarwal, Shri R. Venkataraman,

[Shri Bogwant]

Shri Nemi Chandra Kasliwal, Shri Raghavendrarao Srinivasrao Diwan, Shri Liladhar Joshi, Shri Ranbir Singh Chaudhuri, Shri K. S. Raghavachari, Shri Bhawani Singh, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Dr. D. Ramchander, Dr. A. Krishna-swami, and Shri T. T. Krishnamachari with instructions to report by the 17th September, 1954."

Mr. Chairman: Amendment moved

"That the Bill be referred to a Select Committee consisting of 24 Members, namely. Shri Jawaharlal Nehru, Shri Rafi Ahmed Kidwai, Shri Upendranath Barmann, Shri V. B. Gandhi, Shri Kotha Raghuramalah, Shri Narhar Vishnu Gadgil, Shri Tek Chand, Shri A. M. Thomas, Shri S. Sinha, Shri C. D. Pande, Shri Raghubir Sahai, Shri Shriman Narayan Agarwal, Shri R. Venkataraman, Shri Nemi Chandra Kasliwal, Shri Raghavendrarao Srinivasrao Diwan, Shri Liladhar Joshi, Shri Ranbir Singh Chaudhuri, Shri K. S. Raghavachari, Shri Bhawani Singh, Shri Hirendra Nath Mukerjee, Shri N. C. Chatterjee, Dr. D. Ramchander, Dr. A. Krishna-swami, and Shri T. T. Krishnamachari with instructions to report by the 17th September, 1954."

Shri Raghavachari: I rose earlier to make a request to the hon. Minister in charge of this Bill to tell us whether he intended to cover the case of oilseeds which he wants to include into this entry, in the general remarks about foodstuffs, or he intended to place any other material before the House.

Shri T. T. Krishnamachari: I could not catch the hon. Member fully.

Shri Raghavachari: In respect of the inclusion of oilseeds, do you consider the general remarks on foodstuffs to be sufficient to cover them also, or you wish to make any special remarks in that connection?

Shri T. T. Krishnamachari: As I said, the position was explained at the time when we dealt with the levy of export duties. In any event, what applies to foodstuffs applies to oilseeds, because they have an intimate bearing. As the hon. Member will understand, this is something which has been taken out from article 369 of the Constitution, and it is felt that the powers of the Central Government over these commodities should be kept intact.

Shri Vallatharas: The Bill as it is definitely seeks to circumvent some of the salubrious and definite provisions of the Constitution.

Shri T. T. Krishnamachari: Salubrious?

Shri A. M. Thomas (Ernakulam): Salubrious climate only, we say.

Shri T. T. Krishnamachari: Salutary provisions.

Shri Vallatharas: The practical desire to have a thing done is one thing, but the way to get that thing done is quite different altogether. We have had the experience of the present Constitution for the last four years, and we are now in the fifth year. The framers of the Constitution had considered the situation then existing, anticipated that situation for some years to come, and on that basis, made certain permanent provisions, as also certain temporary and transient provisions. Some of those temporary and transient provisions related naturally to various spheres in which the Central Government have been invested with certain powers, and if necessary, the Parliament also may pass legislation necessary in respect of those matters. Despite that, the Constitution demarcated the powers with which a temporary nature must be attached, from those to which a permanent nature must be attached.

As far as article 369 of the Constitution is concerned, it finds a place in Part XXI—Temporary and Transitional Provisions, of the Constitution.

1 P.M.

I would like this hon. House to appreciate the scheme and structure of the entire Constitution as well as the nation itself. Because it is a written Constitution, as far as possible, doubts have been cleared absolutely and as far as possible, there is no chance left for any interpretation except in cases of emergency. The whole nation has got only two interests—the industrial interest and the agricultural interest. The Planning Commission's Report is quite definite on that. There may be other political issues which we are not considering now. So far as the internal administration and the economics of this nation are concerned, we are only concerned with these two aspects—the industrial aspect and the agricultural aspect. The allotments of grants also are made on that particular basis. Predominance is given to agriculture and industry comes next; that is the scheme and plan. So far as industries are concerned, the Central Government is given a certain preference to control certain commodities which in the interests of the nation must be products of industries, and should be within the jurisdiction of the industries concerned. The components of an industry consist also of raw materials with which the commodities are produced. So distinction has been clearly enunciated in the very scheme of the Constitution itself and that scheme is sought to be implemented by the Constitution at any cost. If there needs be any difference of policy on this matter, then alone a situation arises for a reconsideration of the policy and an interference with the provisions relating to that policy. Article 369 is in a very cautious language:

"Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws

with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

(a) trade and commerce within a State in, and the production, supply and distribution of cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed.....food-stuffs.....cattle fodder....".

This is only a temporary and transitional power, given for five years. Then consider item 33 in the Seventh Schedule (List III):

"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."

I draw attention to the distinction made between industries and agriculture. The transitional power vests upon this Parliament authority to make laws in respect of certain products of agriculture which are not subject to industries, and takes out of the item 'industry' and separately vests it in item 33 of List III, Seventh Schedule. This distinction must be borne in mind.

The hon. Minister referred to certain passages which occurred in the proceedings of the Constituent Assembly when the Draft Constitution was considered. I should say that the period of five years was felt inadequate by some hon. Members, and there was the definite view that the control must be transitional and temporary and must not be made permanent. Permanency is one thing, but to allow it to continue for a certain period is another thing. So the view at the time of the consideration of the Draft Constitution was that instead of five years, a longer period might be provided. But there was no view expressed in the entire proceedings to ensure that permanency can be had so

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far as Central control over these commodities were concerned.

So I would place before this hon House that the position arrived at definitely at the time of the Draft Constitution was that no sort of permanent jurisdiction would be given to the Central Government over commodities like foodstuffs, oilseeds etc., but on the other hand, in view of the transitional period—between 1949 and 1954—they considered that a period of five years might be fixed for having this transitional power during which period when the States could not be expected to stabilise themselves in full strength and full scope to execute their affairs, the Central Government would act as a paternal agency and would look to the interests of the States as well as of the Centre. It was only with that view that a temporary period of five years was thought about and was embodied in the Constitution. Over and above that, I am unable to see or read in, or through, any of those proceedings that any of the hon. Members wanted to make that control a permanent one.

Now, I would like to submit that the Government has no justification at all at this juncture to expect that that sort of transitional and temporary control should be made permanent in some way or other—I am not worried about the way that permanency is sought; that is quite different. Instead of directly approaching article 369 and making some amendment to that effect, by way of extending it to 10 years or 15 years, the present Bill goes out of it, totally discards that provision and does not mind it, and wants a permanent basis. And to achieve that permanent basis, it adopts a circumventing policy by referring to item 33 in the Seventh Schedule, List III. It is not surprising for any of us to feel that when a matter, good or bad, is sought to be achieved, a certain direct and disciplinary policy must always be adopted. It has been mentioned more than once in this House and in the other House that interference with the

provisions of the Constitution at this stage, that is, within five years or some years to come, should not be attempted in a haphazard manner. The sacredness of the Constitution must be preserved and interference with, or amendments to, any of its provisions must be the least minimum and should not arise unless some emergency or some imperative necessity affecting national security and safety arises. Now, is this situation so urgent as to justify one or other of these two things?—that is, an extension of time under article 369 or vesting this control of a permanent nature in item 33 of the Seventh Schedule? Look at the second paragraph of the Statement of Objects and Reasons:

“The position in respect of food-stuffs and cattle fodder at present is fairly comfortable, but it will not be advisable for the Centre to be divested of all legal powers to control their production, supply and distribution.”

Straightway, I can say that the Centre is too selfish and wants to have the centralisation of its own powers to be completed by a process by which the States' authority and status have to be diminished and crippled in course of time.

Why have these temporary and transitional provisions been made? The States have got almost an independent entity. The powers of the State are definitely stated, with which the Centre cannot interfere. The Centre is allowed to interfere in certain matters only in cases of emergency and under stated provisions of the Constitution. So agriculture and products which are somewhat internal are left entirely under State control. The first paragraph of the Statement of Objects and Reasons also concedes that while trade and commerce within the State, and production, supply and distribution of goods in general are within the legislative and executive authority of the States, Parliament is competent, by virtue of entry 33 of

List III, to legislate in respect of products of industries declared to be under Union control. So the control of both industries and agriculture generally vests in the States, and the control over agricultural products completely vests in the States. In respect of industry alone, is an exemption made and the Centre given some powers. So when the Centre was given some temporary powers, the clear intention of those who drafted the Constitution was that the supply of foodstuffs should be left entirely within the jurisdiction of the States. Instead of helping those various States to gain experience to administer and to gain stability by dealing with all supplies and to maintain and establish the strength of the States as inseparable units of the nation, the Central Government now attempts to usurp all such concessions and privileges that were sought to be given to the States under the Constitution. Now, taking away control of foodstuffs permanently under the Central Government means depriving the States permanently of their jurisdiction over these commodities. There is absolutely no other interpretation that can be made on that.

Shri A. M. Thomas: There is a Concurrent List.

Shri Vallatharas: I understand that there is a Concurrent List. But it is only an eye-wash, so far as I feel. You have two-sided agencies. So long as they do not clash, that is all right. But you have got a provision whereby when the Centre feels it must dominate, it has got the right to dominate and the States have got to bow and bend; the States are in no better position to assert their independence as against the inclinations of the Central Government. But for expediency's sake, there may be a concurrency. But when we talk of rights and the building up of the nation on the basis of the 28 constituent units of this nation, which must get stability and have a sort of cohesion by which the internal resources of not only administrative, but of all, nature should be co-ordinated and assimilated, we have

to distinguish the sense in which the present Bill seeks to interfere with the privileges of the States. There may be differences of opinion. My view is that taking cover under concurrency and adopting a method by which article 369 can be circumvented is not fair and proper. I am not going into the merits now whether such control is necessary or not. But, speaking constitutionally, this Bill is totally unconstitutional. The Government have to ask only for an extension of time under article 369.

There is also another thing provided in the Constitution. Production of food materials is the business of each State. The Centre's supervision or control over all these things in the transitional period has been only to the extent of co-ordinating all the resources and seeing that no part of the country starves. I find that not only the internal resources but also the internal situation has been taken into account. At the outset, the States were in an infant position and could not take charge of these and so the Central Government's control over these matters was found essential for a transitional period. These five years have lapsed successfully and the food situation is relieved entirely of the tension and the nation can feel that it can be self-dependent in so far as food materials are concerned.

The second paragraph of the Statement of Objects and Reasons confirms my view that the position in respect of foodstuffs and cattle fodder at present is fairly comfortable. But, it is said, 'it will not be advisable for the Centre to be divested of all legal powers to control their production....' The Centre is so anxious that it cannot think of a situation in which it can lose power over these articles. We do not know the reasons why it is not considered advisable to be divested of all legal powers. Cotton and jute are cited. They are industrial products over which the Central Government may have jurisdiction. But, what about foodstuffs? These are totally eliminated from the Centre's control

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 by the scheme of the Constitution itself and the States are given specific powers by which the foodstuffs will be controlled by themselves. The Statement of Objects and Reasons does not disclose the reasons why it is not advisable for the Centre to be divested of all legal powers to control their production, supply and distribution. This despair on the part of the Centre is highly regrettable. A more careful reading of the situation after an experience of four or five years must necessarily lead the Government to have progressive rather than retrogressive tendencies over the matter, and lament that they are losing powers this way or that way. Food is a matter in which the Central Government should not exercise some sort of control over the various States. Each State is responsible for the production of foodstuffs. The control of the movement of foodstuffs from one State to another is another matter. When the stock of foodstuffs is deficient in the country, then the Central Government, on the application of any of the States or on its own motion, can think of availing itself of other sources, say from foreign countries. Availing itself of foreign resources is not for the Centre itself but it is only for one or other of the States.

I solicit a reference to articles 256 to 263 of the Constitution, under the title, "Administrative Relations—General" and then to article 263 under "Co-ordination between States". Article 263 reads:

"If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

* * *

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

* * *

it shall be lawful for the President by order to establish such a

Council, and to define the nature of the duties to be performed by it and its organisation and procedure."

The significance of this article 263 has to be considered. Whenever a matter arises amongst the States or some of the States and when the co-ordination of the States' interests is to be made by the Centre and the President feels that the matter must be considered in a certain manner, then, under the provisions of article 263, the President may establish a Council, an inter-State Council and that shall take such common matters into consideration and it is for the President to recommend what duties shall be performed. Supposing there is an emergency we will have to consider the necessity of using the powers. It is only when some emergency arises or when conflict arises between the States and the food question assumes some importance under some pretext or other. It will be an occasional occurrence or may not at all arise. This sort of approach, pre-meditating or anticipating a development in the future or feeling desperate over losing a certain power that we have been enjoying, is certainly not the way in which the Constitution should be sought to be amended.

Article 263 clearly lays down that in matters of common concern between the States, the President is empowered to constitute a Council which will go into the matter. Why not an attempt be made in that way when there is really a clash between the States or where something arises. The matter must be considered when the occasion arises. On the basis of the Statement of Objects and Reasons itself there is substantially no reason given for justifying this Bill. There is only an apprehension and there is anxiety on the part of the Central Government to retain the power they are enjoying. There is no necessity for the exercise of that power at present, unless some contingency arises. This is the manner in which

the Constitution is sought to be amended to interfere with.

Item 33 in the third List of the Seventh Schedule is of a permanent nature. Anything can be added to that. Supposing cotton and jute are considered necessary to be controlled they can add that, of course, to the List. Power is allowed to this Parliament to add to these items. I do not doubt the competency of Parliament. On the other hand, when the Constitution definitely states that the States should be given certain powers or certain areas for their own exclusive administrative jurisdiction and in cases of common interest where the Constitution make special provision, where is the necessity to circumvent the provisions of article 369 or article 263 and to come in by the backdoor of the Seventh Schedule? I have to strongly condemn the way in which things are sought to be incorporated into the Constitution because the Constitution is not a thing to be belittled. I may be right or wrong in making certain assumptions and I make this remark that so far as I am able to analyse and see facts—without entering into the merits of the requirements of the Bill—certainly this Bill does not conform to the standard of constitutional amendments that are contemplated in the civilised world. So far as merits are concerned, there is certainly no necessity for this Bill at all. I would say that it is advisable to divest the Centre of all these legal powers in regard to the production, supply and distribution of foodstuffs. Certain reasons must be given why it is not advisable to divest the Centre of these legal powers. The Statement of Objects and Reasons which is given along with a Bill is very important in all material requirements because it must *prima facie* state the position in which these powers are required and the House must be asked to consider all those grounds. The framers of the Bill have not given sufficient material for the House to think in advance, before they can enter into a consideration of this Bill. The Bill proposes to have and

amplification of the entry in item 33 of the third List of the Seventh Schedule, in order that the Centre may be enabled to exercise full control over the development of such industry. In paragraph 3, it is said:

“The Bill accordingly proposes an amplification of entry 33 of List III in the Seventh Schedule to the Constitution. Besides placing four classes of essential commodities in that entry, it is proposed to include also imported goods of the same kind as the products of centralised industries, in order that the Centre may be in a position to exercise full control over the development of such industries.”

So far as the merit is concerned, I have no objection to restrict it to the scope of the existing entry in item 33. Existing things will require some sort of amplification under existing conditions because they might have to be controlled etc. When imported goods of any type are brought into the country the prices will have to be controlled so that they may not compete with the native industry and so on.

When I found the hon. Minister had moved for the reference to a Select Committee, I thought he felt the importance of the amendment of the Constitution, for instead of moving direct for the consideration of the Bill, he has moved for reference to a Joint Committee. But, when I put in my motion I thought that the constitutional requirements need consideration and ordinarily when constitutional requirements can be adjusted in some manner or other an amendment should not be restored to under any circumstance. Even in this the opinion of Members, of course, is most sovereign; I concede that. Simply because we are representatives of the people we cannot assume that exclusive role of a so-called autocratic body and we should not be considered as representing popular opinion in all respects and in all circumstances.

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Certainly we are *bona fide* and our opinion is entitled to carry weight. Instead of taking time over discussion and wasting time over small proceedings we simply straightway pass certain Bills without sending it to a Committee or taking public opinion; but in cases of this type when the State Governments are interested, when we draw this sovereign power from the people themselves and when the Constitution was framed by that sovereign power, it is but necessary that we acquaint the public also of what we are doing at present. There are so many amendments to the Constitution awaiting our consideration; some of them are good and some are bad. This is the season of amendments to the Constitution and the public should be aware of it. Not only the general public but the State Governments must be fully cognizant of all these proposed amendments. From what the hon. Minister has been pleased to observe, I feel that Bihar straightway protested; one or two Governments kept silent and it was said silence means acquiescence; and so many other Governments had no remarks to make. I do not know whether they had sent any remarks at all, or they did not like to make any remarks, or they had no time to send any remarks; but out of 24 States, certainly, the opinion of some at least ten States in favour of this Bill must have been produced before us so that a fair consideration could be had about the importance of this Bill, and then say that it is enough that we leave it to the consideration of a Committee.

In all respects I have heard the Central Ministers harping too much over the importance of consulting the States. They say: "unless the States agree we shall not be in a position to do this and do that". That sort of sympathetic consideration must also be shown here. In this case it is very important; because foodstuffs, though it is considered simple and poor man's concern, it affects 98 per cent. of the people, and rich people indulge in

black-marketing at the expense of the poor. It is a matter of great national concern and the general mass—not only the general mass but all the individual States—are to be adequately equipped with all resources of production, and distribution in respect of foodstuffs, when without foodstuffs for the stomach nobody can move or do anything at any time. So, under these circumstances, I submit there has been a poor representation from the States in the form of opinion over this Bill. I regret that the hon. Minister had passed it over with a smile that some States had no remarks to make. If they have no remarks to make there is no point in the Centre imposing this legislation on them. If the States thought that it was not worthwhile to make any report or reply or they had no time to consider and make a reply, it was the bounden duty of the Centre to have waited for the opinion of all States as far as possible and then alone bring in this Bill.

There is a hurry with the Government that this five years' limit is going to terminate on 23rd January, 1955. Let it terminate; we do not mind. Neither the Government nor this Parliament terminates under any circumstance. It is here to pass any law at any time, whenever it is called upon to consider. Therefore, simply because that five years' period is going to expire in January, 1955, that cannot be a reason, sound or proper, or even deserving any consideration of any reasonable institution; because termination of a certain period is no criterion. We want to know how the Bill reacts on the several States. If out of 28 States, 23 States have nothing to say about it, and their opinion is not to be known, then how can the Central Government assume that it will be accepted by all Governments concerned and it will be worked properly? It will only mean imposing ourselves on those States. Therefore, I think that the opinion of the public, the suzerain power which has given us the status to sit and consider on

their behalf, in such an important matter over foodstuffs, should be left entirely at the discretion and administration of the States themselves, or the supervision, transitional and temporary, that has been vested for five years....

Shri A. M. Thomas: What about the permanent deficit States which will be in a minority?

Shri VaNatharas: I can understand if permanent deficit States have to sound their opinions here to Central Government; but we do not have any opinions from any of these deficit States. I cannot understand why the deficit Governments kept quiet. Am I to presume that the Central Government made a reference to those deficit States and those States kept quiet? If that has been the case, there is no point in pleading for such of those deficit States who did not come forward with their opinion on this matter. At present it is only a matter between two Governments and if one Government is not reciprocating, we have to infer legally and morally that, that Government wishes the state of things that is existing. That means the Central Government losing its very small power at the end of five years. I only stand by the constitutional provision by which the States authorities must be recognised and this must be made the fundamental basis on which legislations should be made. Bringing out a legislation of general welfare depends upon the attitude of the States and co-operation of the States. Nowadays, the economic position of various States is varying in various degrees. We do not know what will happen in course of time. Some are saying that these five years have achieved tremendous progress with regard to foodstuffs and other problems. On the other hand we have nervous apprehension of so many political tendencies coming in mutual clashes and making the future a very chaotic picture. Under the circumstances, at every stage, month after month, whenever occasion arises,

we should be in contact with the opinion of each and every State so far as our matters are concerned. The business of the hon. Members is not an exclusive business; it is also for the States. I have seen specific provision in the Constitution by which the States cannot go and act adversely to the interest of the executive and administrative policies of the Central Government. When we are so particular in minimising the freedom of the States and require the States to obey to us, certainly, the Constitution also wants that the States must be apprised of the position and concurrence of States must be obtained, or else there may be occasional crisis and disaster. Consider these two aspects. Under these circumstances, when we want to exercise sovereign power and make amendments in respect of the Constitution, we would better be cautious and do it by some normal and regular procedure by which we can achieve the thing we desire and also preserve the sacredness of the Constitution from being molested too often, at least once a week or once in a month.

Then, I find that there is absolute lack of co-ordination amongst the Ministries. They have been working for all these four years. I am not referring to the internal matters in the different departments, but so far as the Constitution is concerned, they must have been by this time in possession of a statistical list of such things in the Constitution which deserve amendment. Such a list should have been prepared and presented to the House; or else each Ministry or all the Ministries together should have appointed a committee at the end of the third year or beginning of the fourth year to consider the possibilities on which the Constitution must be amended. Now, a particular Minister comes with an amendment because it does not suit him in a certain way; the Supreme Court's power has to be curtailed because there are some remarks in a judgment and so on. That is not the chaotic, haphazard and piecemeal

[Shri Vallatharas] manner in which amendments to the Constitution is to be done. If individual Ministries think that some amendments are necessary after experience—which experience is a good past and international one—they must have been able to appoint a committee by this time asking it to analyse the Constitution by which the conflicts that have arisen during the working of the Constitution and amendments needed should have been scheduled and submitted to this Parliament in a wholesale measure. That has not been done. For these five years I have not seen an effort on the part of any of these Ministries or on the part of any of the States to avail of provisions of article 263. Then alone we will be able to see how experiments on article 263 help us so far as settlement of inter-State or State and Central matters is concerned.

One point I would like to refer to now is what Dr. Ambedkar had stated in regard to article 306 when he moved it in the Constituent Assembly. He stated that they had put in these matters which the Drafting Committee thought were necessary to be controlled by the Centre for a period of five years. The prospect of extending it after five years, the prospect of making it a permanent one, etc. were considered *in extenso* and the Assembly came to the conclusion that a period of five years should be tentatively fixed. I must say that there is no justification to transgress it or seek another way by which permanency can be established. I beg to say that this matter deserves to be sent for public opinion and all the States must be asked to state their opinion. They may refuse; they may object; they may agree that this is a totally different question.

An Hon. Member: Have they not been consulted already?

Shri Vallatharas: Some half-hearted correspondence has taken place. Public opinion means, of course, a comprehensive opinion. Individually, a department may have written to a State

asking for its opinion. That State may give the opinion either of its Chief Minister or of the particular Minister or of the Secretary. That is not public opinion. The Collectors must be asked; public institutions must be asked and all sections of the people which are interested must know what is taking place. In that way, public opinion in a general sense has not been attempted yet by the Government, and even in regard to the opinions which are stated to have been sent by the States in response to the Centre's request, only Bombay has definitely disagreed, and in respect of the other States, there is nothing to be said for or against. Under these circumstances, any measure that affects the national interests and the vital foodstuffs should not be interfered with, except with the consent of the State Governments concerned.

I submit that the House may adopt that the Bill be sent for the purpose of eliciting public opinion thereon.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): One point for submission, Sir. In this Bill, foodstuffs and cattle fodder are included, but the hon. Minister for Food and Agriculture is not here although it is a very important subject that we are discussing now. Will you kindly ask the Food Minister to be present?

Shri T. T. Krishnamachari: It is not necessary and if questions are raised. I can answer. The Cabinet has a collective responsibility and it is quite enough if one Minister is here.

Mr. Chairman: The hon. Minister in charge of this Bill will be able to answer all the questions that may be raised in regard to foodstuffs.

Kumari Annie Mascarene (Trivandrum): Collective responsibility is not always to be accepted.

Shri Bogawat: I have already moved my amendment. My reason for doing so is that the Members of this House are the direct representatives of the people, and they know the various States and constituencies better. They

are elected by the voters and they know the interests and wishes of the voters and also the interests of the States. It is quite essential that in such matters as amendment of the Constitution, there should be a committee who should consider first the amendment that is proposed and again that committee should be from this House alone. I had pointed out last time when the Home Minister brought a Bill for reference to a Joint Select Committee and I objected to the Joint Select Committee also, giving my reasons. Apart from that Bill, this is a Bill which is very important, and in such matters it is the first privilege and right of this House to give its opinion and put its views so far as the amendment of the Constitution goes. This amendment relates to essential commodities, and I must congratulate the Bombay Government who were bold enough to take objection so far as the amendment relating to foodstuffs and commodities is concerned. The Commerce and Industry Minister has said that none of the States has taken any objection. When the Central Government wants to have a certain amendment or to have anything changed, I do not think there is so much moral courage in so many of the States to come forward and put their grievances. Some States may not have grievances, but the Bombay Government have got their grievance, because Bombay is a deficit State, Bombay is such a State where there are hundreds of textile mills and the question of cotton is very important to them. As regards production and supply of foodstuffs, edible oilseeds and oils, if any State takes any objection, it should be allowed to have its own legislation and it is not incumbent on the part of the Centre to apply such a measure as this on such States. I find in the Statement of Objects and Reasons that according to article 369, the legislation lapses after the 25th January, 1955, and that is the reason given for bringing forward this measure. This House is such a supreme body that it can amend the Constitution at any time, and nothing can prohibit this House from amending the Consti-

tution, and so this excuse is of no use. I humbly submit that, if there are objections from any States so far as production and supply of foodstuffs are concerned, the measure should not be made applicable to them. That is my point. So far as cattle fodder, cotton seed, etc. are concerned, they are very essential commodities, and the House knows that in 1952 and 1953 there was a scarcity in several districts in the Bombay State, and as the matter lay directly with the Bombay State, that State arranged for the supply and managed to do the needful. If these commodities are put in the List as is now sought for, I think it will create many difficulties. I am very sorry to say that in the Commerce and Industry Ministry, there is officialdom rule, and whenever there is any control on supply or production, there will be many difficulties created and people will be handicapped by them. Black-marketing and corruption are due to these controls. When these things happen, it is very material to allow opportunities to the States to control the supply and production of foodstuffs such as those mentioned in the List at (a), (b), (c) and (d). I am not concerned with raw jute because jute is not produced in my State. I do not want to make a lengthy speech because the previous speaker has said many things and I agree with some of his points. I humbly submit that the State that wants to take objection should be given full opportunity and that there should not be any impediment so far as these very essential commodities are concerned.

Shri Asoka Mehta (Bhandara): An amendment to the Constitution is a very serious matter and it deserves earnest consideration. This amendment seeks to modify entry 33 in List III of the Seventh Schedule. Any modification here must affect entry 27 of List II. This modification might appear to be of a minor character. After all, it might be argued that what the amendment seeks to do is to alter an entry in a List in a Schedule of the Constitution. Though an effort might be made to show that this amendment is of a minor character, the amend-

ment goes to the very heart of our Constitution. This amendment has been brought forward because, it has been argued, article 369 will be lapsing and the Union Government will not have the powers to deal with the matters that have been enumerated in that article. Part of the powers are already with the Union Government because, as has been pointed out in the Statement of Objects and Reasons to the Bill, as far as the organised industries are concerned they are included under entry 52 of List I today.

This amendment needs to be very carefully considered because it is likely to alter the pattern of the distribution of powers in the Constitution. As the previous speaker pointed out, there is a certain scheme, a plan, a pattern in the Constitution. Various powers about production, distribution, trade, exchange are given to the State. Only a certain limited number of powers have been taken away. Those powers belong to the State permanently. But a limited portion of these powers is taken over by the Union Government. It is taken over by the Union Government, because as far as organised industries are concerned it is believed that the Union Government would be able to provide greater and more effective direction and control.

But as far as agricultural production is concerned, if our Constitution is to remain a federal Constitution, it is necessary that the maximum amount of power should be left with the federating Units.

There are two stubborn tendencies operating today, not only in our country; these tendencies are operating the world over, particularly where technological changes are taking place, wherever industrial progress is being made. As a concomitant of industrial progress there is always a tendency towards centralisation and a widening of powers of the executive. In our country we have been brought up in the tradition, the whole ethos of our national movement was to counteract these tendencies. We want to create a

welfare State, but not in the picture, not in the image of welfare States created in the West. We have our own philosophy. We believe that it is not enough to be vigilant against accumulation of capital, but it is equally necessary to be vigilant against accumulation of power. And that is the reason why at least in our national movement the leaders taught us that it is very necessary to maintain balance of power and achieve decentralisation of power.

This decentralisation is increasingly being encroached upon by administrative and economic tendencies. In regard to the Five Year Plan, I find that in the first three years, of the expenditure, 50 per cent. was spent through the Centre and 50 per cent. through the States. In the fourth year the proportion of expenditure from the Centre has increased to 65 per cent. and the proportion of expenditure from the States has decreased to 35 per cent. And in the fifth year of the Plan it is expected that 70 per cent. of the expenditure will be through the Centre and only 30 per cent. will be through the States. There is a tendency, an ineluctable tendency towards centralisation.

Should we not do something to check this tendency? Should we not make our States real, effective, units of our Federation?

Apart from that fact, it might be argued that these powers are taken only concurrently. But the very fact that they are demanded shows that they will not be treated merely as a concurrent power to be undertaken only in cases of an emergency or in times of a serious situation. Because as far as any situation of that kind is concerned, the Constitution gives us the necessary powers. Under article 249 it would be possible for the Union Government to legislate on any of those matters included in List II if by a two-thirds vote the Rajya Sabha were to pass a resolution. I am sure in a case of importance—I am not referring

to article 250 which refers to a situation of emergency, I am merely referring to article 249—there could be legislation not only for one year, but such a legislation could be extended from year to year, if necessary, by a vote of the Rajya Sabha. Here also we are anxious to know the views of the States. And the views of the States, it is argued by the makers of the Constitution, would be better reflected in the Rajya Sabha. And in the case of an urgent situation Government have the requisite power. I do not know why the Constitution is sought to be changed.

For more than one reason I object to such attempt to change the Constitution. In article 369 eleven items have been enumerated. Out of them six are covered. As far as industrial goods are concerned they have been covered by various pieces of legislation passed so far, and Government have requisite powers of control and direction. Out of the remaining five, only four have been included in the amendment that has been brought here. Mica has been left out, while jute has been added. Am I to understand that mica was considered necessary to be Centrally controlled, or there should be concurrent legislation as far as mica was concerned, in 1950 or 1949 when this Constitution was framed and jute was not then considered to deserve that treatment? Today, jute is considered necessary. After five years the Commerce Minister or his successor will come forward and say that jute is not necessary and that manganese is necessary. Are we going to tamper with our Constitution in this fashion? I can understand your coming forward and saying that all things affecting the economic life of the country or trade or commerce or industry, or whatever it is, that all these items should be included in the Concurrent List. Then we can sit down seriously and consider the question. But what are you suggesting here? Jute is now important. Five years back mica was important. Mica is now to be taken out and jute put in. Jute might be taken out and cotton put in

the day after. That is not the way in which a sacred document like the Constitution should be treated. The very fact.....

Shri T. T. Krishnamachari: May I help my hon. friend? We were advised that mica was covered under item 54 of List I.

Shri Asoka Mehta: The mover in the course of his speech told us that the framers of the Constitution had already considered the various aspects, and he tried to make out a case that a number of those who were connected with the framing of the Constitution themselves had felt that these powers may have to be extended. But if you will consider the various temporary and transitory provisions that are there, and view them in a common focus, you will find that they are essentially of a transitory character. They were considered to be such that if they were changed, it would alter the very character of our Constitution. For instance, as far as the Part B States are concerned, the President of the Republic has certain powers for a period of ten years. If they were to be changed, if the period was to be extended, or if the provisions were to be altered, the whole character of the Constitution would be altered. Likewise, by seeking to change entry 33 in List III of the Seventh Schedule, we are really changing the character, the balance, the pattern of the distribution of powers. It is argued that this is being done because there is necessity for that and it is surprising to find that this amendment is being brought forward without making out a *prima facie* case about the need of it. We are told in one breath that the food situation is better. Even as late as this morning, the Food Minister assured us that in spite of the floods, in spite of the scarcity of rains in various parts of the country, there is no need to worry about the food situation and about the fodder situation.

Kumari Annie Mascarene: It is not convincing.

Shri Asoka Mehta: All these years, when there was acute scarcity of food,

[Shri Asoka Mehta]

Probably Government did not feel the need to make a change in item 33 in the Concurrent List. They have suddenly realised today, when in various directions the situation is easing, that the Union Government should have extraordinary powers. As my other hon. friend pointed out, the entire economic field should be reviewed and the Constitution should be amended in the light of that general review and this amendment should not be accepted at all. I can understand a comprehensive review of the economic situation and then a decision being taken whether the Constitution needs to be amended in the light of that general review. But, I cannot understand why a Bill of this character, wherein it is stated that a minor change is being made, but which is likely to result in the changing of the character of our Constitution, should be permitted. For these reasons, I oppose this Bill.

I think the Bill is not necessary because no case has been made out. Secondly, the powers are there. In case any powers are needed, the Constitution already gives the Government the powers. Lastly, the method is wrong, the way in which the various items are being introduced is wrong. A few items are introduced today and a few items are taken out tomorrow. For these reasons, I think it would be wrong on our part to accept this Bill.

Shri Tulsidas (Mehsana West): I thank you for giving me this opportunity to place my views on this very important legislation before the House.

I have just heard the views of the hon. Member Shri Asoka Mehta and the hon. Member who wanted this particular measure to be circulated for public opinion. The most important point in this legislation that has to be considered is this. We have seen in the past the difficulties of industries as regards production and the difficulties that they have had in getting raw materials for producing these products. The hon. Minister for Commerce and Industry has pointed out the

reasons why particular commodities are included in entry No. 33 in List III. This is not a measure where it is sought to change the whole economic policy or undertake a review of the economic situation in the country as a whole. That comprehensive review or a comprehensive amendment to the Constitution may be necessary. It was pointed out on the one hand that the Constitution is a very sacred document and should not be amended without careful consideration. I fully agree that it is a sacred document and that it does require very considerable attention and that it does require that the public should be given the fullest opportunity to express their views. Unless there is a very urgent need, the Constitution should not be amended. There, I agree with him. But, when industries find it difficult to have production maintained at the targets as envisaged in the Plan and in the future Plans, this sort of change in the Constitution does become necessary. I find that article 369 has more or less been brought into entry No. 33 in List III. But, certain items have been excluded. I do feel that it may create an impression that it was not necessary to include certain of the items. My opinion is it is bound to create a certain amount of misapprehension or misunderstanding in the mind of the public that such items do not require the co-ordination of the Central Government. The issue which has been made here is concentration of power and it is suggested that there should be more and more decentralisation in this country. In the light of our expanding economy, particularly when we are at the stage of having industrial development, it is necessary that the whole field of industrial production must be under the Centre.

I will come to the question of food-stuffs later on. With regard to the other commodities, they require to be under the purview of the Centre and require to be properly co-ordinated, and leaving it to the States is not desirable in the context in which we are today. When some time back, a Bill was brought here with regard to

some essential commodities, it was very strongly felt here that when article 369 expires on the 26th January, 1955, some measures will have to be brought in in order to see that the policy which is now being adopted by the Government is carried out in future after that date. We are making that provision by amending the article as it is envisaged in this Bill. I do welcome this measure to amend the Constitution and bring these commodities within the purview of the Centre so that everything may be properly co-ordinated. I can appreciate that when we are industrially developed or have reached a certain level, we may have decentralisation. I am sure that at that time, the Central Government are bound to see to it that there is decentralisation. At the present stage when we are expanding, it is absolutely necessary that there is a co-ordinating authority, and that co-ordinating authority must have powers. If they have no powers, it is not possible to co-ordinate. That is how I look at this measure, though I do agree, as I said before, that amendment of the Constitution is an important matter and requires very careful consideration.

2 P.M.

My hon. friend suggested that a review of economic conditions should be made. That is absolutely necessary. This measure does not, in that sense, change the whole policy of the Government on the economic front. It only makes the position clear that if particular industries depend on certain raw materials, and if such raw materials are allowed to be controlled by the State Governments, it may be that we may find these industries not functioning in the manner we want them to function under the Plan

Now, that is why I welcome this measure, and I do feel that when amending this item 33, we have to take into consideration the other commodities or other articles of production of industries which are not included in this item 33, viz., mica, paper, coal, iron and steel and other things. I do not know how they will be brought in,

but under item 52, the production of industries is already under the purview of the Central Government, and therefore it is not necessary to include them under item 33. But with regard to mica, there again, the hon. Minister has pointed out that it comes under item 54, mineral production. Therefore, if all these items can come under the purview of the Central Government, then I can well understand why the other items have not been put in.

The hon. Commerce Minister has pointed out that even while this Constitution was being drafted, there was a very considerable opinion that this measure should be kept for a very long period, and not for a short period, and that, if necessary, the Constitution should be amended. That is what is being done now and I do not think that by changing a particular part of the Constitution we are changing the whole concept or the idea of the State as we like it. It is merely to see that industrial development takes place without any disturbance. That is how I look at it, and therefore I welcome this measure.

Now, I would like to say something with regard to the question of control of foodstuffs. We must not forget the difficulties that the States find, particularly West Bengal found in the case of the West Bengal famine which was supposed to be a man-made famine.

Shri N. C. Chatterjee (Hooghly): Was; not "supposed."

Shri Tulsidas: One of the Members pointed out that if such powers are kept in the hands of the Union Government, there is more corruption. If such powers are kept in the hands of the State Governments, the opinion was expressed here that corruption would be very much less. I am not of the same view. On the contrary, we have seen what has happened in regard to the administration of certain Acts, how they are administered by the State Governments. I feel that the situation would be completely out of control if any situation arises like the Bengal

[Shri Tulsidas]

amine or something like that. And therefore, it is absolutely necessary that particularly control of foodstuffs must be kept under the Centre. I therefore welcome this measure.

Shri S. S. More: I oppose this measure and the Commerce Minister will not be surprised at my opposition. (Interruptions).

First, I want to make a definite grievance that when such amendments of the Constitution are sought, it is a very serious matter and therefore, Government should come out with a sort of White Paper giving reasons why the amendment of the Constitution is sought.

Now, in this particular matter the State Governments are vitally interested, and some of us have been returned from different States. We might not be representatives of the States in the technical sense of the term, but we do represent the people, though not the Governments of the States. So, what affects either by implication or by direct action the destinies of the States, the vital interests of the States, is a matter for our consideration and comment. So, in such a matter I would rather expect the Government to give us at least in a synopsis form the opinions which have been received from the different States. Now, the Minister will say: "Well, in my opening speech, I did give the Members some indications of the opinions". But again, I say I am absolutely unable to understand and grasp what he says in his speech here. His usual—and clever—way of circumventing such a point is to pay a compliment to the grasping power of the Member raising this point and then escape scot-free, but my submission is our Ministers should learn to take these matters with more seriousness. They should not assume that all the material that is available to them is equally available to us and therefore, particularly as they are asking us to amend the Constitution, all the relevant material

justifying that amendment must be placed at our disposal.

Then, the next point or the next question that I should like to ask the Minister in charge of this measure is this: should we not develop a convention that all amendments of the Constitution should be piloted by the Minister in charge of the Law Ministry. What business has the hon. Commerce Minister to move the present Bill? Of course, I accept the principle of collective responsibility...

Shri M. S. Gurupadaswamy (Mysore): He has got business.

Shri S. S. More: I have said they are collectively responsible, but then their collective responsibility is split up into different departments and in spite of the collective responsibility, one Minister who was in charge of Labour disagreed with his colleagues and had to stage a walk-out for good reasons which are appreciated in the country. But that is not the point. As far as I know, when the Constitution was being discussed here, Dr. Ambedkar, who was the Law Minister, was in charge of the measure. Whenever any important constitutional amendment is being taken up in any other country—my knowledge is not as perfect as that of the Commerce Minister—I would say that it is the Minister who is in charge of the legal portfolio who pilots such measures on the floor of the House.

Shri K. K. Basu: He is very overworked.

Shri N. C. Chatterjee: Over marriage?

An Hon. Member: Special Marriage. (Interruptions).

Shri S. S. More: My friend here, for whom I have the greatest respect, says he was the draftsman.

Mr. Chairman: Let us avoid..... (Interruptions).

Shri S. S. More: I want to have it as a convention. It is not a question of avoiding. So many persons work in the kitchen.

Mr. Chairman: I did not object to his reference that the Law Minister was not piloting the Bill. But, whether X was the draftsman, all that has no reference.

Shri S. S. More: I am not prepared to see who is in the kitchen and who has prepared a particular dish. I will look to the man who is serving the dishes when we go to the table. So, I said the bearer who should be in charge of serving this particular measure—he will excuse me the expression—should be the Minister in charge of the legal portfolio.

Let us leave aside these considerations, important though they are. Let us go to the fundamental question. What is our basic approach to the Constitution? What is the kind of constitutional structure that we are trying to introduce in this country or work in this country. It is frequently said this is a federal Constitution. Is it a federal Constitution? If it is a federal Constitution, is it consistent with the largest measure of decentralisation, not only in favour of the States, but also the remotest units in the country—I mean the villages? It is not a federal Constitution. To call it a federal Constitution is something which is a violence to the technical meaning, the constitutional meaning that we have for the words "federal Constitution."

You will permit me to make some references to other Constitutions. Take, for instance, the American Constitution. The American Constitution came into existence because certain States which were in existence decided to surrender some of their powers in favour of the Centre, and they were at the same time particular to see that the Centre exercised no more powers than the powers which were given to it; the residuary powers were left with the States. Now, it was the Congress demand, when we were fighting

the Britishers, that residuary powers should be with the States. There are so many Congress resolutions; when the Simon Commission came, when the White Paper for Constitution came, when we entered into correspondence with Jinnah and the Muslim league leaders, we have emphasized on more than one occasion that according to our conception of federal Constitution, all residuary powers will be given to the States. Not only that. The bare minimum powers shall be kept with the Centre, and the States shall have the largest measure of autonomy. But what is the position now? We came into power on the basis of that declaration, but our article 248 does not say, as the American Constitution or the Australian Constitution does, that the other powers shall be with the States. On the other hand, article 248 definitely states that all the residuary powers will be with the Centre.

Shri B. Das: That is our Constitution. You are looking towards Pakistan.

Mr. Chairman: Apart from the view of the hon. Member, if you argue that it is not a federal Constitution, then you will argue indirectly in favour of the.....

Shri S. S. More: I think I have some legal experience of some standing, and I can very well be left to anticipate the implications of my argument. I accept the very helpful guidance from you, but all the same, I shall try to make out my point in my own way. If you say that, in accordance with what you usually claim, our Constitution is a federal Constitution, I accept for the sake of argument, your claim that this is a Constitution of federation. Then, I would say, in spite of article 248, we must make a positive and definite effort to give as much power to the States as possible.

Now, entry 33 in List III of the Seventh Schedule is being amended. What is the purpose? What is the reason given in the Statement of Ob-

[Shri S. S. More]

jects and Reasons? It is that article 369 will lapse after five years from the commencement of the Constitution, and therefore, Government must have some weapon. Article 369 was placed here, by those who drafted the Constitution, with a specific purpose. They said that during the transitional period, the States will not be finding their feet firm, they will be rather weak, and therefore, the Centre should have these safeguarding provisions. But what is the progress that we have registered? If the Central Government have found it necessary to come forward with this Bill, in spite of what has been laid down in article 369, then it means that during this period of five years, this so called transitory power has failed to serve its purpose and this power is required, not in a transitional way limited only to a particular time, but permanently; the States are still found wanting in the competence for the due exercise of the powers, as they have not developed the strength that the framers of the Constitution expected them to develop within a period of five years. If you feel that article 369 with its limitation of five years was not enough, then the straight course was not to amend entry 33 in List III. but to amend article 369 itself. You could have very well said, insert the word 'ten' in place of 'five', and the period could have been prolonged and these powers could have been given to you. But that has not been done.

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): That would have been better.

Shri S. S. More: My further submission is that now foodstuffs also have been included, whereas in entry 33 as it stands now, only industrial products are included in it. Now, the products of agriculture also are to be included. If you go through List II of the Seventh Schedule, you will find that agriculture and lands are within the competence of the

States entirely. Entry 14 in List II reads:

"Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases."

Entry 15 in the same List reads:

"Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice."

So, the question of cattle fodder, etc. is within the exclusive competence of the State. If entry 33 is allowed to be amended in the way it is sought to be done, then you amend not only that item in List III, but you also amend List II indirectly, not by way of a frontal attack, but surreptitiously, without giving the States a complete idea or a complete picture as to how a slice of their powers is being taken away from them. The next step will be this. You may say, since cotton is the raw material which is required for industry, and since it cannot be grown without land, we require land, and then you will seek to bring all land control also in your power.

Shri D. D. Pant (Almora Distt.—North East): Certainly, we will, if it is necessary.

Shri N. C. Chatterjee: That is the Mahratta method.

Shri S. S. More: Shri N. C. Chatterjee says that that is the Mahratta method. In Marathi, we say 'गुनिमी कावा'. You insert the thin end of the wedge into a crevice and then push the whole thing in. Just as a bullet which makes a small hole where it enters, but comes out of the body opening the largest part of the body, Government will eventually, if this Bill is passed, come to inflict the largest damage on the body of States' autonomy. This is not the way in which you should do this thing. My hon. friend Shri Asoka Mehta, when he spoke earlier, raised

this question of mica and the Hon'ble Minister was pleased to say—I believe it is entry 54 in List I.....

Shri T. T. Krishnamachari: You are never wrong.

Shri Algu Rai Shastri: That is my impression.

Shri S. S. More: The hon. Minister was pleased to say in respect of that, that it will be covered by entry 54 in List I. But this explanation is not correct. Sir, you know the well-known rules of interpretation. If entry 54 is reconcilable with the view that he has now taken, then there was no reason why this particular article should have been mentioned in article 369. In respect of the items mentioned in article 369, it gives power to the Central Government only for a period of five years. But now my hon. friend is arguing here, very quick-witted as he is, that entry 54 is giving the power to the Central Government permanently. Entry 54 in List I must be reconciled with article 369, and the only reasonable interpretation that we can put is that all the items which were mentioned in article 369 were not covered by this particular entry. Otherwise, that article conflicts with entry 54 in List I. We must, therefore, find out an interpretation which will happily reconcile these two provisions which apparently seem to be antagonistic to each other.

So, my submission is that our present Constitution is more rigorous and more niggardly in giving powers to the States, if we compare it with the Government of India Act, 1935. Many of the items in Schedule VII have been taken *verbatim* from the 7th Schedule to that Act, but in that legislation, there is no item in any of the three Lists, which is similar to entry 33, which is being sought to be further expanded now. That means our Constitution has by means of this entry 33 already made certain serious encroachments upon the domain preserved for the State Governments. Not only that, now the

hon. Minister by bringing forward this measure which amends, directly as well as indirectly the different items in Lists II and III, is going further in his predatory trespasses. I feel that the Bombay Government are perfectly justified in their stand. I rarely agree with the Bombay Government, and particularly with the Chief Minister of Bombay, but as far as this particular matter is concerned, I have the greatest pleasure in saying that at least the Bombay Government, on this particular occasion, have stood by the rights of the States, by the autonomy of the States, and have perfectly and with ample justification, opposed this measure.

Shri A. M. Thomas: Imperialism.

Shri B. Das: Bombay is always grabbing.

Shri S. S. More: There is a lot of talk about amending the Constitution, and if the Constitution is to be amended, I say, let us have as many amendments as possible at one stretch. I like some of the previous speakers, would say, have the Constitution as a whole picture, and if the whole picture has to be retouched, let it be retouched in all its parts, so that the new picture which emerges will have some harmony, some correct, correlated, integrated impression to be transmitted to others who look at it. But trying to retouch a finger here and some other part of the body some other time is designed to make us lose the sense of symmetry and due proportion. It is a very clever way of leaving the people in ignorance about the total effect and the implications of these amendments.

I would suggest that Government should appoint a committee for this purpose. I would go further and say that they should appoint a committee of both Houses of Parliament if possible before a Bill is drafted by Government draftsmen, to discuss what amendments are necessary. I can refer to the procedure obtaining in

[Shri S. S. More]

the House of Commons in this connection. When our constitutional provisions were taken up for consideration, after the Simon Commission's report, both the Houses proceeded to appoint a Joint Select Committee. That Committee went into all the necessary amendments, considered what would be the reactions to them, and then submitted a joint report. It is only after this that the Government of India Act, 1935, came to be drafted.

Can we not follow that procedure? Let us have a Joint Committee. Let that Committee go into all these matters. As per statements which have appeared in the Press, only State Governments have been consulted regarding amendments which are necessary. But what about those who represent public opinion? What about those who are not inside the State Governments? Even the opinion of non-officials, even the opinion of the rank and file of the Congress will have to be considered, as also the opinion of those who are sitting here. I would make an earnest appeal to Government. Instead of acting piecemeal in this way, I would suggest that the consideration of this Bill be deferred. Let Government take the public into confidence. Appoint a Joint Select Committee of both Houses for the purpose of finding out by agreement, if possible, what are the provisions of the Constitution that need amendment in the light of our experience during these five years. Then that Committee will submit its report after recording evidence, if necessary, and then a well-assorted, well-deliberated, well-planned Bill for amending the Constitution should be placed on the floor of this House which shall receive better consideration than this sporadic and piecemeal effort to amend the Constitution.

पंडित ठाकुर दास भार्गव (गढ़गांव) :
 चैंबरमें साहब, इसमें शक नहीं है कि जब यह दफा २६६ कांस्टीट्यूशन में बनायी गयी, इसके अल्फाब से यह जाहिर है, इसके अरेंजमेंट

से जाहिर है कि फिलवाक यह २६६ दफा ट्रांजिशनल है।

श्री कं० कं० बसु : अंग्रेजी में बोलिये।

एक माननीय सदस्य : हिन्दी में ही बोलिये।

पंडित ठाकुर दास भार्गव : मुझे दो तरह के हुक्म मिल रहे हैं। ता दफा २६६ का हेडिंग है : "TEMPORARY AND TRANSITIONAL PROVISIONS" उस वक्त जब यह तीन लिस्ट बनी.....

Mr. Chairman: May I make a suggestion? As the Constitution itself was first of all written in English, the hon. Member may speak in English. It is only a suggestion.

Pandit Thakur Das Bhargava: Your suggestion is an order to me.

I was submitting that the very arrangement of the Constitution, the very heading 'Temporary and transitional provisions' shows that the original idea was that the matters as were the subject-matter of article 369 were, from their very nature, such as would have been included in the State List. The words are:

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

So the idea was not that they were to be put in the Concurrent List—they could very easily have been put in the Concurrent List—but they were not put in that list and they were treated as if they were put in the Concurrent List for a period of five years. From this it is clear as a matter of fact that all these matters were regarded by the Constituent Assembly as matters which were properly to be placed in the State List—there is no doubt about it. Then for a temporary period of five years the

Central Government was given authority over these subjects.

Now, from the discussion in the Constituent Assembly when this provision was enacted, you will be pleased to find that there was almost a unanimity of opinion in the whole House that article 369 be enacted. There were only two or three speeches in all and nobody seriously took any exception to this sort of thing. As a matter of fact, the situation in the country was such that the whole country thought that only the Central Government could set things right and the States would not be able to control the whole situation. That was the position. Therefore, temporarily for that period it was thought desirable that the Centre be given authority over these subjects. It would have been much better if at that time we had the forethought or the foresight to make it for ten years. We realise it today.

An Hon. Member: Do it now.

Pandit Thakur Das Bhargava: Now I take this opportunity to pay a tribute to the Central Government for their handling the entire situation in such a way that today some people have begun to say that these ought to be placed in the State List. The food situation was so bad in the country, and even afterwards, the food situation was considered to be so bad, that it could not be handled by the States. So far as the question of importing foodstuffs was concerned, it was of such a paramount importance that only the Central Government could handle it. As I said in this House very many times before, the States did not do their part well so far as the food situation was concerned. The Central Government was stampeded into importing foodstuffs worth crores of rupees, because the State Ministers would not behave well. This is not the first time that I am making this complaint; I have been saying this in this House for the last several years and my opinion is—it may be wrong—it may be right—that had the States

played their part well, we would not have been forced to part with such large amounts of money in foreign markets and we would have been much better off.

With this experience, I should think that two conclusions emerge. The States would not behave rightly unless they were given the responsibility in this matter. The States would not behave rightly because they felt that they would not displease their own people, they would not make the levels and procurement successful, they would not care to take cereals etc. from their own people and displease them, they would not just get the required quantity of foodstuffs from the peasants. They did not, as a matter of fact, do their duty properly in that way. They gave wrong estimates and made exaggerated demands. They put all the pressure that they were capable of in asking the Central Government to import foodgrains, with the result that the Central Government had no option but to import foodgrains. I understand in some years we had to pay as much as Rs. 40 crores by way of freight alone to foreign companies in importing foodgrains.

An Hon. Member: In one year.

Pandit Thakur Das Bhargava: We had something like £1700 million in England to our credit. We have frittered it away to a large extent—at least £400 million have been frittered away in order to import foodgrains alone. I am convinced—I have always been convinced, and have been saying it in this House—that as a matter of fact, there was no such dearth of food in the country that we were obliged to spend such huge amounts to import food. But because the State Governments did not behave themselves, because the State Governments did not do well, therefore this Government had no option but to import foodgrains—they were stampeded into asking for foodgrains from foreign markets.

[Pandit Thakur Das Bhargava]

With this experience, I should think that it is rather early that the change is being made in the law. Unless and until it is proved that the State Governments will not be able properly to handle these subjects, I am of the view that the original idea of the Constituent Assembly that this was a proper subject for the States should not be entirely given up. Now, by this amendment we are putting this subject in the Concurrent List for all time so that we are giving to the Central Government powers which, they being the more powerful, will always exercise. We know of article 254, we know of other articles, whereby when power is given to two bodies, the more powerful body will always exercise that power and not the less powerful one. When we have got provisions like article 254 in the Constitution, a law made by the State Legislatures will not have precedence over the law made by this Parliament. Therefore, my humble submission is that if we enact a law like this, it would mean for all time—unless the Constitution is changed again—that this Government shall exercise the powers which were given to it by the Constituent Assembly in its wisdom only for five years. This will be the result.

I have heard the speech of Shri More. He has drawn our attention to article 248. I may humbly tell him that article 248 was put in the Constitution deliberately. We do not want that kind of federation in India in which the States are totally independent of the Centre and are subordinate to it only in respect of matters in which specific powers were given. It is a kind of unitary Federation.

Mr. Chairman: I think the hon. Member will take some time. Now, it is time for the Private Members' Business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

Shri Kashtwal (Kotah-Jhalawar): I beg to move:

"That this House agrees with the Eleventh Report of the Committee on private Members' Bills and Resolutions presented to the House on the 8th September, 1954."

Mr. Chairman: The question is:

"That this House agrees with the Eleventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 8th September, 1954."

The motion was adopted.

RESOLUTION re: RATIONALISATION SCHEMES IN TEXTILE AND JUTE INDUSTRIES—contd.

Mr. Chairman: Now, the House will resume further discussion on the resolution moved by Shri P. T. Punnoose regarding rationalisation schemes for the textile and jute industries.

On the 27th August, Mr. Punnoose spoke for about 41 minutes and concluded his speech. As he availed himself of the full time assigned to him, he is foregoing his right of reply. Out of the three hours' time allotted for this resolution, two hours and 19 minutes are left for its further discussion. That means the discussion of this matter will close at 4-49 P.M. roughly.

With respect to the amendments, I would like to bring to the notice of the House that I have received certain requests from Members to be allowed to move their amendments. It appears that notice of amendments—about 8—were given when the resolution was moved. When the Members were called upon to move their amendments, only four moved their amendments, namely, Shri S. N. Das, Shri Bhagwat Jha Azad, Shri Asoka