

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill to provide for protection, maintenance, custody, education and employment of children."

The motion was adopted.

**Dr. P. S. Deshmukh:** I introduce the Bill.

**Shri Jhulan Sinha:** (Saran North): I am not introducing my Bill today.

**Mr. Deputy-Speaker:** All the private Members' business is over.

The House will now take up Government legislative business.

#### INDIAN TARIFF (THIRD AMENDMENT) BILL

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

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

**Mr. Deputy-Speaker:** Why is the other Bill, that is the Tea Control (Amendment) Bill, left over?

**Shri T. T. Krishnamachari:** That is coming up later.

**Mr. Deputy-Speaker:** Is there any special urgency for this Bill? Normally when a Bill is already before the House and is half discussed, naturally hon. Members expect that it should be continued unless, of course, there are any special reasons why it should be passed over and some other Bill taken up.

**Shri T. T. Krishnamachari:** I might submit that the order of business is arranged by the office under instructions from the hon. Speaker. I have really no part or lot in this excepting that I had suggested that the Bill is rather urgent.

**Mr. Deputy-Speaker:** Normally, unless the Minister is anxious and there is special urgency, I will not allow two Bills to be before the House.

**Shri T. T. Krishnamachari:** I do plead guilty, Sir, that I am anxious.

Section 4A of the Indian Tariff Act, 1934, as amended by the amending Act of 1950 conferred emergency powers on the Central Government, by notification, to direct an amendment in the Second Schedule to the former Act to be made so as to increase or

levy an export duty on any article. But every notification so issued, by reason of the provisions of sub-section (3) of that amendment, ceased to have effect from the 1st day of March 1952 irrespective of whether Parliament had or had not approved of the duties imposed by these notifications. The present position is that section 4A has become inoperative because of the fact that notifications have ceased to have effect from the 1st day of March, 1952. The position, as the Government now envisages, is that Government need these powers because of certain other considerations. The levy of an export duty, as the House will understand, is not *per se* for the purpose of collecting revenue for the Government. It is more or less an economic corrective. The House will also understand that the burden of export duties does not happen to fall on either the producer or the consumer in this country but it is passed on to a buyer in another country. But this question of Government having to use these powers as an economic corrective is there under the present conditions because I feel that the conditions that existed in December, 1950, when section 4A was originally introduced, do obtain still. The administration of this particular section by the Government, as the House will have had an opportunity of reviewing it, would demonstrate that Government have been using these powers with a great amount of discretion. The House will be aware that recently there have been two large reductions in the export duty in regard to jute which has benefited our jute industry to a considerable extent. A question was asked this morning whether burlap enjoys a certain amount of preference in U. S. and I had to answer in the affirmative.

At the same time there is one difficulty in regard to Government giving up this provision altogether and coming to the House by way of an ordinary Bill. The matter is one of taxation, taxation on goods in which there is a lot of speculation. The Government is not empowered in the same way it ordinarily is through the Provisional Collection of Taxes Act which is used for the normal imposition of either duties or taxes. This question has to be decided more or less on the spur of the moment taking into consideration the prevailing conditions, and if the ordinary methods of legislation were adopted it is possible that people who deal in a particular commodity, who speculate in that particular commodity, might take advantage of Government's intentions and the Government's ultimate objectives might be frustrated. So, on a review of what has been happening all this year and a half or

year and four months, the Government have come to the conclusion that it is best to have section 4A as a permanent provision in the Tariff Act. The control of Parliament over Governmental action in this regard is complete because no notification issued by Government can stay put without a reference to Parliament as soon as it assembles and without Parliamentary approval. Therefore, Parliament can rest assured that that control is there and kept intact.

Hon. Members in this House might ask: What are the particular articles on which you would probably levy an export duty at the present moment? Well, I might ask for forgiveness from hon. Members because that is a matter which I could not disclose, because the very essence of it is that Government have to act swiftly. I might say this much: There are one or two commodities in which probably the Ministry of Commerce and Industry might have recommended to the Ministry of Finance that export duty might be levied which would be to the advantage of the economy of this country, but we could not do it because the powers had lapsed on the 1st March, 1952.

There is yet another reason why clause 3 of this particular Bill is necessary. There are four instances covering cloth, groundnuts, oilseeds not otherwise specified, vegetable oils not otherwise specified, in which action has been taken by the Ministry of Finance, Revenue Division, under the powers vested in Government under section 4A which have now lapsed and the continuance of which happens to be necessary.

These are the circumstances in which Government have come before the House asking for placing this section 4A on the statute-book. The amending Bill is self-explanatory. In clause 2(a) the words "a temporary amendment" are taken away and the words "an amendment" are introduced so as to indicate the Government's desire that it should form part of the Indian Tariff Act. Clause 2(b) gives powers to Government to rescind—it is a variation of the original sub-clause (3) which indicates that the operation of this particular section will come to an end with the 1st March, 1952. Here it states that the Government may rescind even though a particular notification has been approved by Parliament—whether it has been approved or has not been approved, Government can rescind these notifications if other conditions demand it. Clause 3, as I said, is more or less the re-validation of the present position because the notification in respect of these four

commodities has to be kept in force. Therefore, Government are asking that retrospective effect be given to the present amendment. If it is approved by the House, then these notifications will be kept in force.

I suggest that there are no snags in this Bill. Nothing is concealed. No powers are attempted to be taken by Government under a subterfuge. It is very plain sailing, as Members both on my side and on the side of the Opposition will understand. Whatever the Government does must ultimately come to the House for sanction. If the House refuses to sanction a particular duty, then the notification will cease to have effect. That position is covered and maintained and I hope the House will pass the consideration motion.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

**Shri K. K. Basu (Diamond Harbour):** Under clause 2(b), the Central Government is taking power to rescind and modify any notification which has already been approved by Parliament. I would like to know whether this power is to be used only during the interval and that the notifications will come up before the House when the specified period is over and Parliament meets again. I could not catch the hon. Minister on this point.

**Shri T. T. Krishnamachari:** If the hon. Member would refer to the original sub-section (3) which has lapsed and which is now sought to be reproduced, he will find that it says:

"Subject to the provisions of sub-section (2) of this section and section 21 of the General Clauses Act, 1897, every such notification shall have effect on and from the date thereof, but shall cease to have effect on the 1st day of March 1952."

Now, Section 21 of the General Clauses Act runs thus:

"Where by any Central Act or Regulation a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power exercisable in like manner and subject to the like sanction and conditions if any, to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."

In the original sub-section this had been reproduced. Not that it was necessary and it was done. The powers under section 21 of the General Clauses Act remain, whether it is men-

[Shri T. T. Krishnamachari]

tioned in the body of a Bill or not. But here we have made it plain that they may be rescinded or varied.

As the hon. Member will understand, in regard to the jute duties Government reduced them to a certain level at one stage and then they reduced them further. The whole idea is this. If actually any increase is made, naturally Parliament will be informed, but if any reduction is made, excepting the sending of an ordinary intimation to Parliament, there is no question of parliamentary sanction for the purpose of effecting a reduction. It is an economic corrective and Government will have to take action from time to time. The powers that are vested in Government under section 21 of the General Clauses Act still remain, whether they are mentioned or not. But since we have taken away that particular clause, the position has been amplified and it does not mean that the Government are taking any more power. So far as varying the duty in a manner which will reduce the duty, it is very necessary that the Government should first do so.

Mr. Deputy-Speaker: What is sub-section (2)?

Shri T. T. Krishnamachari: Sub-section (2) remains. It says that every such notification shall be laid before Parliament, if it is in session, as soon as may be after the issue of the notification, and if it is not in session, within seven days of its re-assembling and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning on the date on which the notification was issued and if the Parliament makes any modification in the notification or directs that the notification shall cease to have effect, the notification shall thereafter be issued in such modified form or be declared to have ceased to have any effect, as the case may be, without prejudice to anything done previously under such notification. That provision remains.

Dr. S. P. Mookerjee (Calcutta South-East): Some explanation is due from the Minister as to why this amendment was not brought forward earlier. It places the Government in a very embarrassing position. Apparently, under the 1934 Act, this power given to the Government to levy export duties by notification lapsed on the 1st March 1952. There was a session of Parliament during that period and

we are now faced with an extraordinary situation in which the Government have levied duties which practically they have no legal authority to do. Therefore, we are being called upon now to validate certain notifications, which were wrongly issued. It was due to serious lapse on the part of someone in the Government, for easily this amendment could have been made earlier. We have been collecting these duties illegally and I appreciate why the hon. Minister is very anxious that the Bill should be passed into law as quickly as possible.

Secondly, the hon. Minister has not explained why he wants to remove all reference to the date. Apparently, it was thought that this power given to the Executive Government should be limited to a certain date on account of the special conditions prevailing in the country, though normally these duties are levied by a Bill placed before Parliament, when the House has a chance to express its opinion before the duty is fixed and not merely hold a post-mortem examination. That is why the date, 1st March 1952, was fixed. There may be a case for extension of the date. Government may extend it by another year or two years. But is the hon. Minister satisfied that it will serve the purpose of having the necessary check in such matters if we remove the date altogether? This matter concerns Parliament also. The hon. Minister just touched the point, but did not explain what exactly was the necessity for withdrawing altogether this outer limit from the Bill. What is now proposed is this. There is no question of "temporary" amendment. If you take away this outer limit of any date, then naturally the expression "temporary amendment" also has to be withdrawn. It now becomes a part of the normal law and Government can by executive order make any amendment and the only precaution is that under sub-section (2) to which the hon. Minister just referred the matter will be placed before the House and the House may have a chance of making a modification. But that will be after the Government have made a decision and fixed the quantum of the duty to be imposed and announced it. I am not disputing that there may be occasions when these decisions have to be taken very quickly and a certain amount of secrecy also has to be observed, because otherwise it may lead to all sorts of undesirable consequences. I am quite prepared to admit that that contingency may arise in the disturbed economic conditions through which the country is passing today, but

would it not serve the purposes of Government if instead of removing the date altogether the date is extended? Let us extend it to the 1st March 1954—two years. Without this, the ultimate authority of Parliament in normal cases to consider this matter before the duty is actually levied will be permanently abrogated. That is the point of view which I would like to place before the Minister for his consideration.

**Shri Pocker Saheb (Malappuram):** The proposed sub-section (3) in clause 2 reads as follows:

“For the removal of doubts it is hereby declared that any notification approved by Parliament, whether with or without modifications, may be rescinded by the Central Government at any time by notification in the Official Gazette.”

The purport of it appears to be that though under the previous law an order issued by Government had to be approved by Parliament, hereafter there is no necessity for such approval. I am not quite clear in my mind as to whether the later notification has to be placed before Parliament or not before it is given effect to. If that condition is there—that the subsequent notification of the Central Government, either rescinding or modifying the previous order has to be approved by Parliament—it would be unobjectionable. In the absence of such a provision, it is objectionable. I hope the position will be clarified by the hon. Minister.

**Shri S. S. More (Sholapur):** May I ask a question of the hon. Minister? Can the Minister give us some idea of the total amount of illegal recoveries that have been made since the lapse of the notification. We are asked to legalise the whole thing; so we should at least know the quantum of the particular duties.

**Shri Bansal (Jhajjar-Rewari):** The subject matter of this Bill relates to delegation of fiscal power by this Parliament to the executive. On this question there were prolonged discussions on two occasions recently: once at the end of 1950 when a Bill very similar to this was being discussed and then later on in March 1951.

In 1950 a very long discussion took place on this question of delegated authority and the House had to adjourn itself in order to come to

some agreement. The hon. Dr. Ambedkar while dealing with this question, which again related to the amendment of this very Act, had a few things to say. I will quote from the proceeding of Parliament held on 4th December 1950. He said:

“I have no doubt in my mind that that is the correct attitude”—that is, delegated authority should not be given to the executive—“which Parliament should adopt in the matter of taxation. The power to tax is a very important power. It is really the one and the only power which Parliament possesses to control the Government, to order the Government and if Parliament were to give its permanent power of rising revenue to the executive, the executive would not care two hoots for Parliament.”

Then later on he went on to say:

“I also came to the conclusion that probably from the point of view of financial propriety, from the point of view of maintaining the supremacy of Parliament, it was desirable to make some amendments in the clauses as they stood in the original Bill.”

After this the House adjourned and they arrived at a certain agreed formula, which provided two safeguards in the Bill. One was that this power should be restricted for about a year, that is, this Act was to remain in force till the 1st day of March 1952. The other safeguard was that soon after the issue of notification under this Act, the notification should be brought before Parliament within a week of its meeting and discussed within two weeks of the placing of the notification.

The second power is remaining. About this second power an hon. Member—I am quoting from his speech on that occasion—said as follows:

“Well, Sir, I will ask my hon. friend on the Treasury Benches; Do they envisage that with a party which belongs to them in the House it is possible for the House to say: “we will not accept a fait accompli for which the Ministry is the cause. No; it is not possible; even though I may have a conscientious objection to support Government action, I would stay away from the debate rather than get up and oppose a measure which seeks to put the imprimatur on an action taken by my hon. friend, the Minister of Commerce and Industry.”

[Shri Bansal]

This was said by my hon. friend who is the Commerce and Industry Minister today. If it was correct in December 1950, I do not know how it is invalidated now by his mere transference to the Treasury Benches.

I am not against giving this power to the executive, because I realise that now-a-days we are passing through very difficult times. Government have to take action about these matters at very short notice. They cannot be expected to bring forward a Bill before Parliament even when it is in session because of the speculative element involved. I am against the use of the power of Ordinance, because it is repugnant to democracy. Therefore, Government should have some such power as contemplated in the Bill. I would only request the hon. Minister to accede to the request of the House that there must be a time-limit here. I do not even say that this power should not be given permanently, but then it must be open to the review of the House every year. So that whatever notifications are issued by Government and discussed in Parliament may again come before Parliament for a general review, so that whatever has happened during the course of the year will be reviewed by Parliament. This is after all a supreme body and the Ministry or the Minister concerned should have nothing to fear if it is a legitimate case and Parliament would be very happy to grant the necessary sanction for the continuance of the Act.

I have not been able to give notice of an amendment, because this Bill was introduced only day before yesterday and we got the Bill yesterday. Within such a short time it was not possible to go into the Bill, which though it looks very small is a very important one. I would therefore request the hon. Minister to bring forward an official amendment substituting the figures "1953" or "1954" in place of "1952" in the Act.

I have another small point to make which has already been made by Dr. Syama Prasad Mookerjee. Obviously somebody has been dozing in the Ministry, if not actually sleeping—dozing for a continuous period of four months. It is surprising that in Government such a thing should happen. It would not be tolerated anywhere else. I suggest that as Government had no authority to levy these duties which have been levied from April 1952 up-to-date, as Government have no legitimate right to those duties, they must be refunded and that would

be a salutary lesson to those people who have been sleeping over it.

**Dr. S. P. Mookerjee:** And recover it from those who were sleeping!

**Shri Bansal:** No it cannot be recovered; I do not suggest that. But if my suggestion is accepted they will be more vigilant in the future. If you gloss over these things I do not know how the executive could be made to mind their business by this supreme body. I take a very strong view of this.

The third point I have to make is this. The proposed sub-section (3) reads thus:

"For the removal of doubts it is hereby declared that any notification etc."

I think this is hardly the language appropriate for an Act. This reads the language of a notification. Therefore, this should come either as a proviso or as an explanation. The legal experts and the draftsmen of the Government of India may look into it. I am a novice, I am not an experienced legislator. I would, therefore, request the hon. Minister to look into this. This should more appropriately come as a proviso or as an explanation rather than as a substantive part of a section of the Act because the wording looks more like that of a notification or a Government order.

**Shri Tulsidas (Mehsana West):** I have given notice of an amendment which I shall move at the appropriate stage. Dr. Syama Prasad Mookerjee and my friend Shri Bansal have already explained the point of view we have. I would only like to add that these powers are generally for emergency conditions. After all, an emergency does not exist every time. I do feel it may be necessary for a year or two. But these powers to be taken for all time to come is rather asking Parliament to delegate its powers to the executive so that we will have, so to say, to surrender our supremacy with respect to certain things. After all, taxation must come before Parliament. I mean every time when any duty is enhanced or reduced it has always been brought forward before Parliament in the Finance Bill.

**Shri T. T. Krishnamachari:** Not when it is reduced.

**Shri Tulsidas:** In normal times the levy of any duty always used to figure in the Finance Bill, in the Budget. Therefore, in this case also, when the times are normal, Parliament should

not allow for all time the power of levying a duty or of increasing the duty in the hands of the executive. I feel very strongly about it, and I think some time-limit must be put.

The hon. Minister has said that on the spur of the moment or looking to the circumstances he may find it necessary that certain duties on certain articles may have to be levied or increased. I do not dispute that these powers are necessary for a certain time. But there must be a time-limit. It is very essential, and the point has been made out by Dr. Syama Prasad Mookerjee very ably.

As regards the point about refunding made by my friend on the other side, I think Government has to take a lesson that the executive must always be alert and they should not exercise the powers on the pre-supposition that Parliament will give them the necessary approval. It does not speak well of the Ministry. I am not pressing for refund, but this is a very serious matter.

**Dr. S. P. Mookerjee:** How much has the hon. Member paid?

**Mr. Deputy-Speaker:** I do not think the suggestion goes so far as to say that personally the persons in charge must pay.

**Dr. S. P. Mookerjee:** No, no.

**Shri Tulsidas:** I feel very strongly that these powers must be limited to a particular period, may be one year or two years. I have tabled an amendment in this respect which I shall move at the appropriate time.

**Pandit Thakur Das Bhargava (Gurgaon):** I have to submit a few words on this matter. In December 1950 this question cropped up in the House. And the question was whether we should delegate this authority...

**Mr. Deputy-Speaker:** If I may interrupt the hon. Member, I have a doubt, and the hon. Member may also speak with reference to it.

The hon. Minister will see that the wording in section 4A is "The Central Government may...direct a temporary amendment of the Second Schedule". In the nature of things, by this amendment it is perpetual. Is it not therefore opposed to the provisions of section 4A?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** We have also proposed an amendment to omit the word "temporary".

**Dr. S. P. Mookerjee:** There should be another amendment then because section 4A starts with "Emergency power..." The word "emergency" should also then go.

**Shri T. T. Krishnamachari:** That is not correct. The exercise of the power is in terms of an emergency. But the exercise of a power in terms of an emergency does not mean that a statutory provision should always be a temporary one.

**Dr. S. P. Mookerjee:** Emergency can hardly be perpetual.

**Mr. Deputy-Speaker:** Emergency may arise from time to time; the power is perpetual. The power has to be exercised whenever an emergency arises. I do not think there is much difference.

**Pandit Thakur Das Bhargava:** I was submitting that this point came up before this House in 1950. It was gone into at length. I was then of the opinion that as a matter of fact we were not competent to delegate this authority and I quoted our own Constitution in this respect. But it was held by the House that since the Constitution of Great Britain allowed such delegation to be made, therefore it was in order and it was resolved by the House that this power be given. But at the same time I do remember that we went into a conference and we ultimately came to a compromise by virtue of which the Bill was passed. And we imposed on that occasion certain conditions under which the Government should exercise these powers. There it was that the time was fixed upto March 1952.

Now, I for one am very jealous about the rights of the House and I want that so far as this Parliament is concerned this Parliament is the only body before whom all these things should come as far as possible and delegated authority should only be exercised on such occasions when the coming of those matters before Parliament was fraught with certain difficulties or when it was in the interest of the country to do so. I can visualize to myself conditions in which the Ministry may be armed with such powers and on occasions the Ministry may use them for the benefit of the country. I do not know what these conditions were in these four months, and I do not know what they are at present. At the same time I have got confidence in the Commerce Minister and the Ministry as a whole, and if these powers are exercised by them I have no objection. But I do want so far as this Parliament is concerned that these powers may not be delegated as a matter of course.

## [Pandit Thakur Das Bhargava]

And I would rather support the proposal of my hon. friend Dr. Mookerjee that so far as this Bill is concerned we will be well advised in changing the date to—he says 1954, but I would rather say 1953, so that subsequently whenever it is considered necessary the matter again comes to this House. As I have already said, we have confidence in the Ministry and they can take it that we are not going to say that they cannot exercise these powers. But it should not behave in such a manner as to usurp the powers of the House itself. I would respectfully submit for the consideration of the hon. Minister that when he himself has been quoted in this respect he ought to see that his own view while he was an ordinary Member of this House are respected by him. I would therefore beg of him to agree to change the date to 1953 so that both the things may be safeguarded, namely, the right of the executive to take such action as is necessary in the interests of the country as well as the right of Parliament to consider matters which are in its own province particularly and to have the final say in the matter. I would therefore like that the change be made that instead of 1st March 1952 it should be 1st March 1953—though, if the hon. Minister wants to take powers for a longer time, I will not very much oppose such a demand.

In regard to the matters which took place four months ago I must also join my friend—not in the drastic remedy which he proposed, because that is now out of the question and we cannot implement it. How can we reach those people and make refunds? Who will benefit from it? All these are very complicated questions. All the same, I cannot but record my sense, I should say, of protest, to use a mild word at the manner in which things have been done. Why should for four months certain taxes be levied without the sanction of Parliament? It is not a question of any persons approving or disapproving of it. On the contrary I would like the hon. Commerce Minister to give an explanation to this House why this was so. Who was at fault? If any particular person was at fault, it is the duty of this House and the hon. Commerce Minister to see that that person is brought to book. Public matters should not be dealt with in this manner. After four months, the hon. Commerce Minister comes before this House and asks us to validate what was illegal to start with. This is most deplorable.

**Shri H. N. Mukerjee (Calcutta North-East):** I do not wish to take much of

the time of the House; but I think it is my duty to add my voice to the voices on this side, including, I am glad to say, the voice of Pandit Thakur Das Bhargava, who tried to point out very cogently that Government has done something about which certain explanation ought to be offered to this House, before we pass this kind of legislation that has been placed before the House.

It is quite obvious that certain backstairs methods have been adopted; it is quite obvious that the ambit of Parliamentary legislation has been encroached into by the executive and by means of what looks like a footling little Bill, by means of a Bill which attracts very little notice of the Members of this House, certain things are sought to be done, which really impinge upon the prerogatives of this House. I need not amplify the points which have already been made. I would only say that the process which the Government have adopted in regard to the changes in the levy of export duties is a process which is against all canons of democracy, and if we are now going to rectify certain errors which naturally cannot be helped at this point of time, let us do that with those precautions which are absolutely necessary. Therefore, let us not extend the operation of the provisions proposed in this Bill beyond as short a time as possible. I would suggest that 1953 may perhaps be adopted as far as the extension is concerned. I do not think I should speak any more; but I do wish to say that the Government, in this matter, has behaved in such a fashion that it owes it to itself and to the House to explain its conduct in regard to this particular legislation.

**Mr. Deputy-Speaker:** This should have been introduced before 1st March?

**Dr. S. P. Mookerjee:** Yes; he should have got the Bill passed before the 1st March.

**Mr. Deputy-Speaker:** We cannot go into the entire thing now. That would be covered under the Parliamentary rules. Extending a particular Bill up to a particular period: that is the only subject matter. The Minister would not have been delinquent in that case.

**Dr. S. P. Mookerjee:** Quite right.

**Mr. Deputy-Speaker:** Does it make any difference? Does any other hon. Member want to say anything? Yes; Mr. Gandhi.

**Babu Ramnarayan Singh (Hazari-bagh West):** I have to say something.

**Mr. Deputy-Speaker:** I have called the other hon. Member. I shall call the hon. Member later.

**Shri V. B. Gandhi (Bombay City-North):** I think the House would be well advised to give its approval to this Indian Tariff (Third Amendment) Bill.

This Bill, we must remember, has something to do with the future of our export trade. Whatever happens to our export trade is going to determine in the very near future whatever success or failure we are going to have in our many economic plans, including our Five Year National Economic plan. The Bill, obviously, deals with the levy of export duties and the powers that are sought to be taken by the Government are powers that would enable the Government either to levy immediately duties on new articles or to alter the existing duties on articles which have been leviable to duty so far.

There is a question of imposing a time-limit on the operation of this Bill. As suggested by Dr. S. P. Mookerjee and also my hon. friend Mr. Bansal, I would have no objection to some kind of reasonable time-limit being placed on the operation of this Bill. I would rather hesitate to go as far as Mr. Bansal who suggested an annual consideration of the Bill. The administration should have some reasonably long time within which to operate. Another thing that we must remember is that the action which the administration has to take under this Bill is an action that it has to take sometimes in cases where the initiative may not always lie with the Government. Let us consider an instance. Suppose some day, tomorrow or any day, the British Government decides to have a further devaluation of the pound, immediately a situation will arise in respect of our export trade where the Government will have to act promptly and immediately. Therefore, such powers are necessary, where a delay will be to the detriment of the revenues of the Government. Perhaps we shall be throwing undeserved windfall profits into the laps of exporters in the case of a devaluation, whether it is in the case of the Government of the United Kingdom, or France or the United States, with whomsoever we have export trade in our staple commodities. There are also other kinds of situations where our export trade might be languishing or suffering because of our existing export duties being too high. In a case like that also, if the Government is required to come to this House with a Bill to ask for permission to alter the existing duties, I think that

procedure will be certainly to the detriment of the interests of this country in its export trade. In view of these very important considerations, I shall again repeat that this House will be well advised to approve the Bill before it.

**बाबू रामनारायण सिंह :** कमी कमी जब मैं देखता हूँ कि सभी दलों के लोग एक स्वर से ठीक बात बोलने लगते हैं तो हृदय में बड़ा आनन्द होता है। आज जो विषय सामने आया है, मैं देखता हूँ कि उस वर हमारे भाई लोग बहुत ठीक बोल रहे हैं, और खासकर हमारे भाई जो ठाकुर दास जी हैं, यद्यपि वह चेले हो चुके हैं, लेकिन कमी कमी पुरानी बात याद आ जाती है। अब बात यह आती है कि हमारे मंत्री श्री कृष्णमावारी ने भी कोई कुसूर नहीं किया है। वह तो नये मंत्री हैं। डिपार्टमेंट का ड्यूटी (duty) लगाने का अधिकार ३१ मार्च को ही खत्म हो गया था। इस के बाद जो रुपया लिया गया उस के बारे में हमारे भाई ठाकुर दास जी कहते हैं कि यह बड़ा मुश्किल मालूम होता है कि यह किस को रिफंड (refund) किया जाये यह सब तो है, लेकिन यह जो कहा जाता है कि इस पार्लियामेंट के हुकम के अनुसार सरकार काम करती है यह कैसे मालूम होगा। यह तो हम सीधे सीधे देखते हैं कि हमारे मंत्रियों आदि को भी कोई अधिकार बगैरह नहीं है। डिपार्टमेंट जो कहेगा हमारे मंत्री महोदय वहाँ जा कर दाखिल कर देंगे और पार्लियामेंट का भी संगठन ऐसा हो गया है कि वह भी कह देगी कि हाँ ठीक है। तो खासकर ऐसे विषय में जहाँ पर कि हमारे और भाई भी यह देख रहे हैं कि गलती हुई है, कोई सजा तो होनी चाहिये। यह क्या मतलब है? मैं तो कहता हूँ कि पार्लियामेंट को यह अधिकार होना चाहिये कि ऐसे ऐसे कामों के लिये तो समूचे डिपार्टमेंट को बरखास्त कर देना

(बाबू रामनारायण सिंह)

चाहिये। क्यों वह लोग पार्लियामेंट के हुकम के खिलाफ काम करते हैं। अगर वे लोग डिसमिस होने को नहीं हैं तो कम से कम यह तो होना चाहिये कि वे रूपए तो डिपार्टमेंट को न मिलें। उस को किसी तरह से रिफंड किया जाये और अगर रिफंड करने में भी कठिनाई है तो उस को दान कर दिया जाये। वह डिपार्टमेंट को क्यों मिलें। अगर हमारे मित्र कृष्णमाचारी, डिपार्टमेंट की तरफ से माफ़ी मांगें कि अब जो हो गया सो हो गया, आगें ऐसा क्रसूर नहीं होगा, तो भी माफ़ी दी जा सकती है। लेकिन कोई माफ़ी भी नहीं मांगी जाती और क्रसूर भी नहीं माना जाता। या अगर आयन्दा के लिये वायदा किया जाय कि आयन्दा ऐसा कार्य नहीं होगा तो भी उस को आप छोड़ दे सकते हैं।

लेकिन जब कुछ भी नहीं आता है तो कभी तो ड्रास्टिक स्टेप (drastic step) जिस को कहा जाता है लेना चाहिये। जब कोई खून करता है तो उसको फांसी दे दी जाती है। क्या यह ड्रास्टिक स्टेप नहीं है? तो जब किसी को खून करने पर फांसी की सजा होती है तो डिपार्टमेंट क्रसूर करे तो डिपार्टमेंट डिसमिस भी न हो, यह कौन सी बात है? खैर, डिसमिस न हो तो कम से कम मेरे मित्र कृष्णमाचारी जी जोर से कहें कि कामर्स डिपार्टमेंट ने बड़ी भारी गलती की, बड़ा भारी कुसूर किया है और ऐसा अब आगे वह नहीं करेगा। ऐसा बादा करें तो आप फिर जैसा चाहें इस को पास कर दें, नहीं तो इस को रोक देना चाहिये। बहुत बातों में तो जैसा डिपार्टमेंट चाहे हो जाता है, जो उधर से आता है यहां पार्लियामेंट में पास हो जाता है। लेकिन जहाँ इस तरह की बात हो वहाँ तो कम से कम मालूम होना चाहिये कि पार्लियामेंट

सरकार के ऊपर है। कभी कभी तो ऐसा मालूम होना चाहिये। बराबर देखा जाता है कि पार्लियामेंट डिपार्टमेंट के इशारे पर है, जो कोई चीज डिपार्टमेंट कह देता है पार्लियामेंट वही कर देती है। यही हम देखते हैं। लेकिन आज अवसर आया है जब हम सब सहमत हैं। तो ऐसे वक़्त तो मालूम होना चाहिये कि पार्लियामेंट कुछ है। मैं और अधिक नहीं कहता मगर यह कह देता हूँ कि जब हम सब सहमत हैं तो कुछ होना चाहिये। तो तभी सहमत होने की कुछ कीमत होगी। वरना ड्रास्टिक या कुछ भी कह कर छोड़ दीजिये तो उस से काम नहीं होगा।

**Shri N. C. Chatterjee (Hooghly):** It is clear that by this Bill, we are legalising an illegality. Under the statute as it was in operation, notifications could not be passed after the 1st of March, 1952, but we understand levies were made, and they have been collected. They were not authorised collections. For four months, this illegal collection has gone on from 1st March.

Look at the way in which this Bill has been brought out. On the 12th July we find the Minister signing the Statement of Objects and Reasons.

**Mr. Deputy-Speaker:** Have any notifications been issued after 1st of March?

**Shri T. T. Krishnamachari:** None.

**Mr. Deputy-Speaker:** No notification has been issued after the 1st of March. The original notification only wanted to prolong the period.

**Shri N. C. Chatterjee:** Even then the notifications ceased to have effect on the 1st day of March, 1952. Therefore, the collections which have been made under those notifications are illegal collections. There is no doubt about it. They are unauthorised.

**Mr. Deputy-Speaker:** Illegality may be committed in two ways. A new notification may be issued after 1st of March. The old notifications, though they have ceased to be in operation, may still be kept in operation as if they are valid and taxes collected. I think the hon. Member was referring to the other one, that even after the 1st of

March new notifications have been issued. That does not appear to be so.

**Shri N. C. Chatterjee:** Collection under any notification after the 1st of March would be illegal.

**Mr. Deputy-Speaker:** That is another matter.

**Shri N. C. Chatterjee:** Under section 4A, sub-section (1) as it stands now, it is clearly an emergency power. You are saying here that where it is necessary to take immediate action, then the Central Government can issue a notification, directing a temporary amendment to be made. I submit the word "temporary" is very important. It preserves the power of Parliament; although you are delegating power to the executive, that delegation is restricted, not unregulated. That word should be there so that the power of the executive should be subject to the higher authority of Parliament. And, therefore, I am submitting that there should be no change effected there. The word "temporary" should be kept. Otherwise, it will be an uncanalised delegation, unregulated delegation to the executive. It will be an improper delegation, and that will be really an inroad on the powers of Parliament as my friend has stated already.

11 A.M.

I am supporting Mr. Bhargava's suggestion that in sub-section (3) of section 4A, "1952" should be made "1953" so that the notifications will continue to have effect till the 1st of March, 1953. Government's position will be regularised. They do not suffer, and at the same time, this unregulated, unrestricted delegation of authority will not be legalised. There is no difficulty because under the Constitution there is power to promulgate an Ordinance under article 123 during the recess of Parliament and you can have any legislation under that during the period when the House is not sitting and six weeks thereafter. Thereby, the whole position can be regularised, and there will be no difficulty if you retain the word "temporary" in section 4A, sub-section (1).

**पंडित मुनीश्वर दत्त उपाध्याय (जिला प्रतापगढ़पूर्व) :** यह ऐसा विषय है जिस पर मैं आवश्यक समझता हूँ कि कुछ थोड़ा सा निवेदन करूँ। जब जब यह विषय इस भवन के सामने आया तो इस विषय के एक पहलू पर हमेशा बहुत जोर दिया गया कि पार्लियामेंट के अधिकार सरकार को न दिये जायें और यह कि इस तरह से अधिकार

दे देने के पश्चात् बहुत सी दिक्कतें पड़ सकती हैं और कभी कभी उस अधिकार का दुरुपयोग भी हो सकता है। लेकिन फिर कोई रास्ता न निकाला जाय तो बहुत सी दिक्कतें सरकार के सामने भी आती थीं अगर इस तरह का अधिकार न दिया तो हमेशा फिर यही मूरत रह जाती थी कि सरकार कोई न कोई बिल (bill) लायें, विधेयक पार्लियामेंट के सामने लायें और उस को पास करायें। इस तरह काम करने में बड़ी दिक्कत पड़ सकती है। उस कठिनाई को दूर करने के लिये जब जब यह प्रश्न हमारी सरकार के सामने आया तो कोई न कोई रास्ता निकालने की कोशिश की गयी, जैसा कि हम ने रिपोर्ट में भी देखा और जिस का हवाला भी दिया गया।

लेकिन अब यह जो अधिकार मांगा जा रहा है मैं समझता हूँ कि इस तरह का अधिकार दे देना उचित नहीं होगा और मैं अपने जो अन्य माननीय मित्र हैं उन से सहमत हूँ कि इस सम्बन्ध में थोड़ा सा प्रतिबन्ध होना आवश्यक है। वह प्रतिबन्ध समय का हो सकता है। इस लिये सब से आसान चीज जो इस में हो सकती है वह यह है कि, जैसा भागव जी ने तजवीज किया, बजाय सन् १९५२ के वह सन् १९५३ कर दी जायें। इस में कोई दिक्कत भी नहीं होगी, कोई बाधा नहीं होगी। सब-संकशन ३ में बजाय सन् १९५२ के सन् १९५३ कर दिया जायें। इतने से ही काम बन सकता है। जैसा कि चैटर्जी साहब ने फ़रमाया उस लेहाज से भी यह आवश्यक है कि इस तरह का अधिकार सरकार को रहे। वरना जैसी दिक्कत उन्होंने बताई और जो सन्देश उन्होंने प्रकट किया वह हो सकता है कि चार महीने से विला किसी अधिकार के वसूलायी हो रही

[ पंडित मूनीश्वर दत्त उपाध्याय ]

है। यह बहुत सन्दिग्ध प्रश्न है कि इस के यह माने लगाये जा सकते हैं। परन्तु तो भी ऐसा प्रश्न काहे को उठे? अगर हम रास्ता यही रखें कि पार्लियामेंट के सामने कानून बन कर आवे तभी वसूलयात्री हो सके और इस पर कार्यवाही की जा सके तो मैं समझता हूँ कि वह बड़ा कठिन रास्ता है और उस में हमेशा अड़चनें और दिक्कतें पड़ा करेंगी। उन अड़चनों से बचने के लिये और ऐसे सन्देह से बचने के लिये जैसा कि चटर्जी साहब ने अभी हाउस के सामने निवेदन किया मैं समझता हूँ कि आवश्यक यह है कि अधिकार तो जरूर दिया जाय लेकिन उस अधिकार के देने में समय का वह प्रतिबन्ध रखा जाय जो कि तजवीज किया गया है। और एक थोड़े से संशोधन से हमारा काम हल हो जाता है और वह संशोधन, जैसा मैंने निवेदन किया, यह है कि सिर्फ ५२ को ५३ कर दिया जाय।

एक तजवीज और भी हमारे सामने आई है। मैं समझता हूँ कि अगर उस का कोई तरीका निकल सके तो बड़ा सुन्दर है। इस से पूरे तौर पर वह मतलब तो नहीं निकलता है, लेकिन ऐसे मामलात, ऐसे प्रश्न प्रायः हमारे सामने, इस भवन के सामने, आ जाया करें और उन के प्रसंग में जो त्रुटियां हुआ करती हैं उन त्रुटियों पर हम विचार करके संशोधन कर दिया करें, उन के बारे में इस भवन की राय प्रकट हो जाया करे तो आसानी से सुधार हो सकता है और मेरी समझ में जो बड़ी बड़ी गलतियां अक्सर हो जाती हैं और यह कोई नयी बात नहीं है, उनका भी सुधार होता जाय और आयन्दा के लिये, ऐसी गलतियों के लिये, लोग सचेत होते जायें। मैं निवेदन करूंगा कि यह अधिकार देना आवश्यक है, उस तरफीम के साथ जो कि जागंजी ने उपस्थित की है।

**Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes):** May I make a few observations?

**Mr. Deputy-Speaker:** Evidently the hon. Member gathers momentum after many other hon. Members have spoken.

**Shri T. T. Krishnamachari:** May I express my gratitude for the support from a quarter where support is not usually given, namely the support given to me by my hon. friend, Dr. Mookerjee. I only wish that in extending that very generous support, he need not have twisted the tail of it and wanted me to restrict the scope of this measure to a limited period.

One question was asked by my hon. friend, Mr. More for which I shall give the answer. I think the question he asked should be posed in this manner. Supposing the House do not agree to the passing of this measure, what will be the loss that Government will incur? It will be in the region of about one crore and 63 lakhs of rupees.

It has been mentioned that there is a great laxity on the part of Government.

**Shri S. S. More:** Will the hon. Minister mention the particular duties from which this income has accrued?

**Shri T. T. Krishnamachari:** I have some figures regarding vegetable oils and oil-seeds, groundnuts and cloth. This represents the total dues collected on them. The same duties could be collected irrespective of action taken under section 4A and therefore the net loss and the amount that would have to be refunded, if this Bill is not passed would be in the region of Rs. 163 lakhs.

It has been suggested that there has been laxity on the part of the machinery of Government. It cannot be denied. I am quite willing to accept the responsibility; though it does happen that the carrying through of this measure happens to fall within the scope of the Ministry of Commerce and Industry, the actual administration of the duties is in another Ministry altogether. It is true that this matter has been missed and it is very difficult to say exactly who is responsible. Very possibly we the Government are responsible because we accept a provision of the nature that has been put in sub-section (3) of section 4A, a provision which limited the period of the operation of that particular clause. It has no real bearing either to the

financial year or to any other category excepting that it is an *ad hoc* day. I am not disclaiming responsibility. It does not matter as to who is responsible, whether it is my Ministry or the Revenue Division of the Finance Ministry. It is the responsibility of the Government and I certainly (*An Hon. Member*: Collective responsibility) accept the responsibility. I do not propose to deny that somebody else has not lost sight of it, and whether it is a Minister or somebody else, the House is not concerned with the matter, so long as I accept the responsibility.

On the second question, a reference was made by my hon. friend, Mr. Bansal about something that I had said. Mr. Bansal is rather new to the House and therefore he has misquoted something that I had said. It was in relation to levy of protective duties by executive order. I should like to draw a very important distinction between levying protective duties either for revenue purposes or protective purposes without a proper examination and levying export duties where a consumer in this country is not affected, but where it is for the purpose of correcting an economic evil.

**Shri Bansal:** It is not a question of 'without proper investigation' because the import duties are levied after the report of the Tariff Commission. I am not mis-quoting at all. I was reading out from the proceedings and this cannot be called mis-quoting. I seek the protection of the Chair on that matter.

Secondly, does the hon. Minister imply that he cannot be quoted on any occasion? It is not necessary that he should be speaking on the same subject in the previous year. It was a matter of principle that was being discussed on the floor of this House and the principle was whether the executive can pass...

**Mr. Deputy-Speaker:** Order, order. The hon. Minister is no new Parliamentarian. He is practically as old as this House and he knows quite well what can be quoted. He had made a statement earlier and he is entitled to change as any other hon. Member. I do not find that any trouble arises here.

**Shri S. S. More:** Are we to take it that an old Parliamentarian commits no mistakes?

**Shri T. T. Krishnamachari:** I am sorry my young friend mistook me

when the particular quotation was in regard to a Bill moved by my hon. friend on my left, which is for the purpose of protective duties and therefore it was that I said that the quotation was not quite germane. I was rather afraid that I might have spoken on this particular measure in 1950. I have a vague recollection that I was not very well at that time. But I realise that I had taken part in that discussion. I think it was a question of law which was dealt with by my hon. friend, Dr. Ambedkar, I remember having taken part in that particular discussion, but I think I was fairly careful not to say anything which could be used against me at the present moment, but that does not matter. Supposing I had said that, I can change my position. In any case I did not cast any reflection on the hon. Member but I only said that the point is not germane.

The question now hangs on one particular thing, namely, why should the word 'temporary' be removed. I am not a lawyer. (*An Hon. Member*: Thank God.) Perhaps one can thank God, but it is a different matter altogether as one looks at it. I often wish I had been one. (*Hear hear*) I am rather surprised that a jurist of the eminence of Mr. Chatterjee should intervene for the purpose of making clear a particular view which in my opinion does not seem either germane or tenable. He says that the word 'temporary' is very essential. But I cannot see how, because a delegation of authority can be made temporarily and not permanently. Of course, my hon. friend must know all about law and the delegation of powers. Yet, I do not see how it is anything but temporary. If the executive acts on this delegated authority and issues a notification imposing an export duty, it has to come to Parliament again. All the benefit that the executive will get will be the collection of duty made between the period of notification and the period when it comes to Parliament. Parliament can say "No, we would not allow you to do that; the notification should be rescinded". In my view, therefore, the temporary nature of the notification is maintained. Whether this power is given as a permanent part of the statute book or not, the action on the part of the executive is *per se* temporary. I am surprised, that an eminent jurist and lawyer should have said this.

**Shri S. S. More:** As in March 1952, in these two notifications, it is open to them to cancel or withdraw the

[Shri S. S. More]

notification, but until they do so, the notifications are automatically in force and they go on perpetually.

**Shri T. T. Krishnamachari:** What I am seeking to maintain is that if Parliament does not ratify the notification, then it disappears. So the action taken by Government is purely a temporary one.

**Pandit A. R. Shastri** (Azamgarh Distt.—East cum Ballia Distt.—West): What harm is there if you keep the word 'temporary' in the Bill?

**Shri T. T. Krishnamachari:** I am coming to that point presently.

The second point mentioned by my hon. friend Mr. Chatterjee is that the Government have powers under article 123, by which they can issue an Ordinance. I thought a lawyer and a former Judge of the High Court would rebel against the idea of an Ordinance. If we find out our mistakes, it is quite true that an Ordinance can be issued, even without this Bill. It is quite true that it is not necessary for us to have these powers at all, if we are going to resort to Ordinances. My hon. friend will also concede the point that for any action under article 123 of the Constitution, when Parliament disperses, it has to be prorogued, because for the issue of the Ordinance, it has not to be in session. This is a suggestion which a Government might ordinarily adopt, as it comes from a lawyer of such eminence as my hon. friend Mr. Chatterjee. But as a person who is not a lawyer if I were on the other side of the House, I would not have made that suggestion, and I would not even have thrown the idea to the Government that instead of seeking powers to be vested in them by the express sanction of Parliament they should resort to an Ordinance, and for that purpose prorogue Parliament which might be in session.

**Pandit Thakur Das Bhargava:** Nobody likes any Ordinances.

**Shri T. T. Krishnamachari:** Such an idea would shock my conscience if I were a lawyer. But it shocks me all the more even though I am not a lawyer. It is a different thing altogether. The lawyers see only the seamy-side of life and are therefore immune to these shocks that laymen like me are subject to.

The question really is this, namely whether the power that is given by the Bill should be limited to a period only or whether it should be a part of the statute-book permanently with the limitation that is imposed on it by the provisions of sub-section (2), which, in my view, is a very effective limitation. On every issue, Parliament can deny the power asked for by the executive. The mischief that would be done by the executive will be limited to that period only, the period between the time the notification is issued, and the time it comes to Parliament. As has been mentioned in sub-section (2), it cannot be of a long duration. It is a question for the House to decide.

My hon. friend Mr. Tulsidas Kilachand suggested that the date should be 1st March 1953. I cannot understand what is the particular sanctity about that date. If my hon. friend says that the times are now such that everything is normal and that trade is moving normally, that prices have not shot up, the world prices are on a par with Indian prices, and so there is no possibility of levying an export duty, I say this power is not necessary at all, for ever, it is only necessary for a period of six months, because I may have in mind the question of levying an export duty on one or two articles for some other purpose. But the world is not like that. I quite understand the opposition of my hon. friend Mr. Tulsidas Kilachand or of my friend Mr. Bansal. Their question is, what would happen if these powers are not there. The answer is that trade will make the money. For instance, I shall give you the prices of some commodities that were obtaining here and elsewhere, in the last week of June 1952:

Groundnut—Rs. 20/15/- per maund in India.  
Rs. 48/2/- per maund in Singapore.

Linseed—Rs. 580/- per ton in India.  
Rs. 974/- per ton in the U. K.

Castor Oil—Rs. 1120/- per ton in India.  
Rs. 2150/- per ton in the U.K.  
Rs. 4000/- per ton in Egypt.

Linseed Oil—Rs. 1360/- per ton in India.  
Rs. 1855/- per ton in the U.K.  
Rs. 3195/- per ton in Ceylon.  
Rs. 735/- per ton in Egypt.

Hon. Members from the Opposition have got such a soft corner for the trading community in the country that they feel that they should mop up this difference of price between what is ruling in India and what obtains elsewhere. I think by doing so, they are doing damage to the principles which they hold dear.

**Shri S. S. More:** No hon. Member from the Opposition suggested that there should not be any powers like that.

**Shri T. T. Krishnamachari:** I am always grateful, Sir, for small mercies, and I am very grateful to my hon. friend Mr. More who has said that the power must be given. I am wanting not merely an acquiescence in my demand, but I want support also from my hon. friend Mr. More that they will not permit, not only upto the end of 1st March 1953, but for ever any person in this country mopping up the difference between the prices that rule in India and those that obtain elsewhere. I want that kind of support from the Opposition.

**Shri S. S. More:** Not for ever. The question involved is that of granting powers to the executive Government, and we are opposed to that.

**Shri T. T. Krishnamachari:** My hon. friend cannot have the cake and eat it too. If he wants that he must have the cake, he should not eat it.

For instance, if my hon. friend Mr. Tulsidas Kilachand—the hon. Member might forgive me if I am referring to him. I am only saying this by way of an example—comes to know that I am thinking of the levy of an export duty on some goods, he will probably try to corner them to send to some other country from India.

**Shri Tulsidas:** I am sorry that the hon. the Minister has quoted something, which it is not well of him to have done. I never said that the export duty should not be levied. I only said that the power to levy it should be there only for a temporary period, that the executive should not have this power for all time to come. That is exactly what I said. Why then refer to the question of prices ruling here and elsewhere. If the prices here are low and those elsewhere are higher, then export duty should be levied, otherwise you cannot solve the problem.

**Mr. Deputy-Speaker:** The hon. Minister evidently means that if the power is not granted in an emergency, but is limited only to 1953 or 1954, what is to happen after that period.

Emergencies need not be confined only to two years.

**Shri Tulsidas:** The period can be extended.

**Mr. Deputy-Speaker:** The hon. Minister is quite right in saying that so far as the Government interests are concerned, they are interested in seeing that the difference in prices is mopped up and taken over by Government. It must be there to cover the emergencies. There is no quarrel about that. It is equally right on the part of the hon. Minister to have said that otherwise the difference will only go into the pockets of the industry or trade. Hon. Members may refute his argument, but they have now lost their chances. If the chance arises later, let the hon. Members continue their arguments.

**Shri B. Das (Jajpur-Keonjhar):** When points of order are being raised, hon. Members are only opposing the explanation given by the hon. Minister. I wish that you will make it clear when any Members of my own party or the so-called Opposition here raise points of order, they should try to explain their grounds over the point of order.

**Dr. S. P. Mookerjee:** The hon. Member is raising a point of advice.

**Mr. Deputy-Speaker:** Let us not digress. By whatever name it might be called, the hon. Member wants to clear up some doubt, in this way. Let me not be strict in these matters. ;

**Shri T. T. Krishnamachari:** I do not want to get side-tracked. I merely stated an example. I know that my hon. friend is not interested in oil or anything like that. So it is not a question of mentioning it at all. The point really is this that this limitation that is sought to be laid is a meaningless limitation because the limitation is already existing there. If tomorrow the Government imposes an export duty on a particular article and then issues a notification for that purpose and then comes to Parliament and Parliament says: "No, we will not give you the power", that is the end of it. As I said, the restriction is only for a very short time and whether you say that you want to restrict this power or not, the totality of the power until 1953 or 1954 or 1955, the restriction can be exercised by Parliament at every stage and in every individual instance. As I said, I can only feel that acceptance of this amendment in 1950 limiting it to 1st March 1952 has merely brought us into a rather unpleasant predicament of one Ministry.

[Shri T. T. Krishnamachari]

having to move it, another Ministry having to execute it, and somebody in between losing sight of the thing, and legal opinion being given that unless the Bill is brought again to Parliament and Parliament passes it, the position cannot be covered. It is merely to avoid a contingency of this nature that this step is taken and the powers of Parliament are not abridged in any way. You do not add to the power of Parliament by saying that it will only operate until 1953 or 1954. In any event, I cannot accept an amendment of the nature proposed by the hon. Mr. Tulsidas Kilachand that this should be limited to 1953. In fact, experts tell us there is a slump in the offing, economic disturbances possibly in the offing and therefore, Government feels in these circumstances that...

**Mr. Deputy-Speaker:** That may be so with respect to future notifications. When future notifications are made, they have to be placed before Parliament and its approval obtained. Then it is open to Parliament to modify or even to restrict its operation. But with respect to those two notifications the life of which is sought to be prolonged, Parliament, except on this occasion, will not have a say so far as its operation is concerned. That is why I think the Opposition is now trying to restrict it.

**Shri T. T. Krishnamachari:** What we require now in respect of these four commodities is something altogether different. It is not permanent. It is only for a lapse on the part of the Government which we want Parliament to condone.

**Mr. Deputy-Speaker:** But it will have its operation also in future.

**Shri T. T. Krishnamachari:** It will continue. As a matter of fact, mere condonation of that lapse on the part of Government will allow it to continue.

The other question—I think some hon. Member raised it—is that of the wording of sub-section (3) of section 4A which appears in clause 2(b)—why this? Why should the Government reduce the duty or vary it? As I said, the powers are already there under section 21 of the General Clauses Act. Then section 23 of the Indian Sea Customs Act gives power to the Government to reduce duties whenever they like. They can exempt; they can reduce. The powers are there already, even in respect of duties which

are revenue duties in which the House is vitally interested as custodians of the interests of the consumers. Here, as I said, people in this country are not interested except in business, to make a little more money if you do not put export duty. The consumer is not affected. What we propose to do is to use an economic corrective and it will be perfectly open to the House on the occasion when I come before it or my hon. colleague, the Finance Minister comes before it, to refuse to ratify. Government will think twice before they move further in the matter. But there is no question of now ascertaining anybody's opinion because the matter has got to be dealt with immediately, and that point has been very ably made out by my hon. friend, Dr. Syama Prasad Mookerjee. This is a matter in which Government cannot hesitate. It has got to be executive action; it cannot be any other action, because secrecy is vital in a matter like this and therefore, it cannot be helped.

Secondly, the question of temporariness. It is temporary. You can reject the resolution ratifying the notification. I can assure the hon. Members of this House that if on occasions the House indicates that it does not like governmental action, the Government will be chary of issuing any notification of this nature. This will be only for a period to cover an emergency. Nobody suggested to Government that they should reduce the export duty. We are losing trade, we are losing vital foreign exchange. So we reduced it to half and then further. I mean it is not a question of anybody suggesting to Government that it is lower. We lose vital foreign exchange and industry will suffer. Government is fully conscious of the needs of varying its attitude in a matter like this. Therefore, I humbly suggest that this safeguard, as it might seem to limit the operation of section 4A to any particular period, is unnecessary, because the safeguard is already provided and any action taken by Government would only be temporary even if the word 'temporary' is taken away because the powers can only be for an emergency period used for an emergency. It will not become a permanent part of the statute-book unless the emergency continues to exist in regard to that particular trade. I, therefore, humbly submit that in this position, we have been—it is a case of once bitten twice shy—bitten by this rather funny or curious limitation of the application of this particular section until the 1st March 1952 and we are now in this position of

having to apologize to the House for condonation of something that we have done. Therefore, I do not want this thing to be repeated and I can assure hon. Members that the interests of the people will be safeguarded and there is not an iota of the control of Parliament that will be taken away. Everytime we have to come to you for ratification. It has to be approved by Parliament which is a sovereign body or refused by them. I hope in view of the explanations that I have offered and in view of the fact that fundamentally between the attitude of the bulk of the Members of this House and that of the Government there cannot be any divergence in regard to the necessity of a measure of this nature, the House will accept the motion that I have moved.

**Pandit A. R. Shastri:** You have excellently explained.

**Mr. Deputy-Speaker:** The question is:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

The motion was adopted.

**Mr. Deputy-Speaker:** There are no amendments except the one tabled by Shri Tulsidas Kilachand, notice of which was received at 9-55 a.m. this morning. Now the practice in the House is that unless the Minister in charge of the Bill is agreeable to accept the amendment...

**Shri T. T. Krishnamachari:** I have indicated that I am not agreeable to accept it.

**Mr. Deputy-Speaker:** Then should the notice be waived?

**Dr. S. P. Mookerjee:** Sir, this has come as a surprise to us. How is it possible to give notice without studying the Bill?

**Mr. Deputy-Speaker:** Was it not in the agenda of yesterday?

**Dr. S. P. Mookerjee:** No one knew until this morning that this was coming up today. Yesterday we adjourned when the Bill under discussion was the Indian Tea Control (Amendment) Bill. Today the order of business is altered.

**Mr. Deputy-Speaker:** If this Bill was not in the agenda yesterday...

**Shri T. T. Krishnamachari:** May I make a humble suggestion to the Chair, that I should personally not object to the matter being voted upon? Only I will not accept the amendment. It is for the Chair to accept it or not

to accept it, subject to the considerations that exist and so far as I am concerned, I am not suggesting that the Chair should rule it out. I have only indicated that Government cannot accept it.

**Mr. Deputy-Speaker:** It cannot be expected that the Tea Control (Amendment) Bill would have taken the whole day. If this was already on the order paper yesterday.....

**Dr. P. S. Deshmukh (Amravati East):** This was introduced only a few days ago.

**Shri T. T. Krishnamachari:** It was introduced day before yesterday and it was put in the Supplementary List and very possibly, Sir, the hon. Member did not have time to notice it.

**Dr. P. S. Deshmukh:** There could be no time.

**Mr. Deputy-Speaker:** I find the Bill was introduced only on the 14th. That is all. Though sufficient notice ought to have been given...

**Shri Karmarkar:** The agenda was circulated day before yesterday. It does not matter. We have no objection.

**Mr. Deputy-Speaker:** That is another matter. I will waive the notice. I do not think hon. Members can be expected to have tabled their amendment earlier.

Clause 2.—(Amendment of section 4A etc.)

**Shri Tulsidas:** I beg to move:

In page 1, for lines 8 to 13, substitute:

'(b) in sub-section (3), for the figures "1952" the figures "1953" shall be substituted.'

That means the whole clause goes and in sub-section (3) instead of "1952", it becomes "1953".

**Mr. Deputy-Speaker:** Then I shall place the amendment before the House.

**Shri T. T. Krishnamachari:** Before you do so, Sir, I might mention one thing. I do not know if it would fit in actually in that form.

**Shri Tulsidas:** I would like to make a few observations on this amendment. My amendment almost retains the previous sub-section (8), only "1st day of March, 1952" becomes "1st day of March, 1953".

**Dr. P. S. Deshmukh:** It almost negatives the whole Bill.

**Shri Tulsidas:** It does not negative the whole Bill. My point in putting in "1st day of March, 1953" is this. And here I would like the hon. Minister to understand that I am not against any increase in or levying of export duties. In fact, if I may remind him, in the Export Advisory Council meeting in the year 1951 it was I who suggested to the Government to impose export duties. It took at least six months before Government took a decision to impose export duties. It is no use saying that the business community as a whole is not in favour of export duties. I am really surprised to see that the remarks which the hon. Minister has made have gone against the business community. The business community has played its part; it had given warning a long time before that export duties should be imposed but the Government had not done so till six months after when the full damage was done. And it is now being assumed that the business community does not want export duties!

There is another aspect also. In abnormal times there should be export duties but when the times return to normalcy those export duties should be removed. In normal times the export duties do not come from the pockets of the foreign buyer but from the pockets of our own producer. That is a factor which must not be forgotten. The export duty then comes from the pocket of the producer because the price he receives from the foreign buyer is so much and not anything more and the export duty is therefore taken from the producer. I can understand the imposition of export duties in abnormal times because then they come from the pocket of the foreign buyer. I am prepared to convince the hon. Minister on this point even from the point of view of economic theories.

**Mr. Deputy-Speaker:** Nobody here says that in normal times you must have an export duty.

**Shri Tulsidas:** Therefore, I come to the point. In normal times export duties have to be removed because otherwise the prices of those commodities will remain very high. We see at present a trend towards normality and I hope at some stage we must reach normal times. If on the 1st day of March, 1953 the abnormal times still remain the hon. Minister can certainly come forward with the suggestion that the period should be extended for a year or two. I do not mind that. The point is we must have

certain ceiling in this matter, so that when normal times do come we should not continue the export duties. That is a fact which I would like the hon. Minister as well as the House to take note of, because in normal times the export duty has to come out of the pocket of your own producer. Before I conclude, I would also like to repeat that the suggestion that the business community has always not liked the imposition of export duties is not correct.

**Mr. Deputy-Speaker:** Amendment moved:

In page 1, for lines 8 to 13, substitute:

'(b) in sub-section (3), for the figures "1952" the figures "1953" shall be substituted.'

**Shri Karmarkar:** The merits of the question have already been gone into by my senior colleague. I would just like to add one reason why we want this amendment in the present form. I was unable to appreciate the apprehension on the other side because every notification, either reducing or increasing the duty, has to come before Parliament. We are very particular about that point. My hon. friend, Pandit Thakur Das Bhargava knows very well how almost impractical a time-limit of seven or fourteen days would be, and how difficult it would be of operation. We are of the view that in practice in a sovereign Parliament where Government is responsible to Parliament to have any such artificial limitations would be unnecessary but we accepted that in order to satisfy the House. This amendment which we have before us now is very well-advised inasmuch as every notification imposing an export duty has to come before Parliament and Parliament can by way of resolution either confirm or modify every such duty. It is hardly necessary to have the limitation here. In fact, a limitation here would harm the sovereignty of Parliament in a sense. What we are concerned here is a statute. *(Interruption)* My hon. friend, Dr. Syama Prasad who is far senior to me may listen to me for a moment. This is a statute which you cannot change unless you introduce an amending Bill. Even after approval of a notification if Parliament feels that the notification should have continued effect even after the date specified in the notification, Parliament cannot in the course of a resolution make an amendment to the statute. Assuming for a moment that Parliament does feel that in a particular case it would serve the interests of the country to keep everyone full informed and not

keep anyone—neither the producer at home nor the buyer abroad—in suspense about the need to continue the duty, say, up to 1st day of March, 1954, Parliament cannot by a resolution achieve its object. It shall have to do it by way of an amendment to the statute in respect of that particular duty. Therefore, we have here a double protection.

**Dr. S. P. Mookerjee:** Has Government ever announced that a duty will be imposed from a particular date to another date? Has not Government the right to change it at any time?

**Shri Karmarkar:** The point that I was making was this. The executive here has been given a seemingly wide power but there is no generosity about that power inasmuch as every notification has to come before the House either for approval or for modification. We have been charged with frequent changes in our export duties: Once you put up an export duty, then you lower it, then you again increase it—that has been alleged and rightly in some respects. There is always an advantage in having a steadiness about these duties, and it does not give any advantage to the country to say that after all any notification issued on the 1st January, 1953 has to expire on the 1st March, 1953. It does not do any good to the country at all. Parliament has supreme right to make any modification it chooses whenever any particular notification comes into operation. It can say, "This duty will remain in operation for one year, six months, or two years or for ever". Every notification has to come before Parliament and in view of that provision I am quite sure in my mind that this objection to giving Government the general power is absolutely unfounded. Therefore, we oppose the amendment.

**Mr. Deputy-Speaker:** The question is:

In page 1, for lines 8 to 13, substitute:

'(b) in sub-section (3), for the figures "1952" the figures "1953" shall be substituted.'

The motion was negatived.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

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

"That the Bill be passed."

**Mr. Deputy-Speaker:** The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN TEA CONTROL (AMENDMENT) BILL

**Mr. Deputy-Speaker:** Yesterday when I was about to put the consideration motion, some hon. Member raised a point of order and I gave my ruling. I shall now put the motion.

The question is:

"That the Bill further to amend the Indian Tea Control Act, 1938, be taken into consideration."

The motion was adopted.

Clause 2.—(Amendment of Section 3 etc.)

**Shri P. T. Chacko (Meenachil):** I beg to move:

In page 1, line 8, for "such period as may be prescribed" substitute "a period of two years from the date of nomination or election."

My object is that instead of leaving it to the executive to fix the period, we may limit the period by legislation itself.

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** The Act itself will expire in 1955. The total period within which the executive can fix the tenure of this Committee is only three years. I have not made up my mind whether we should extend it by one year or two years. I would rather that it is left to the executive to decide. I am unable to accept the amendment.

**Shri P. T. Chacko:** I do not press my amendment.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 4.—(Substitution of new section for section 26 etc.)

**Shri P. T. Chacko:** I beg to move:

In page 1, line 22, for "also" substitute "not".