

CONSTITUTION (THIRD
AMENDMENT) BILL

Mr. Chairman: The next item of business is for the hon. Commerce and Industry Minister to move that the Constitution (Third Amendment) Bill be taken into consideration.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to move that the Bill further to amend the Constitution of India, as reported by the Joint Select Committee, be taken into consideration.

My task in commending this motion to the House has been considerably simplified by the fact that the Select Committee hardly made any changes in the Bill. The only change made was in clause 2 under entry 33, sub-clause (a) and it is a verbal change which is indicated by the words underlined "where the control of such industry". Hon. Members will recognise this change, purely verbal, and it does not alter the meaning of the particular sub-clause. I think it would not be giving the measure of respect that I should give to hon. Members who have appended a minute of dissent to this Report of the Joint Committee if I do not give some attention to what they have said. The hon. Members who have submitted a minute of dissent, many of them are prominent lawyers, experienced in public life, and whatever they have said has to be given some attention. But unfortunately I do not find that any new point has been raised in the minute of dissent appended to the Report of the Select Committee beyond what was mentioned on the floor of the House. The minute of dissent proceeds with a generalisation that the amendment, if passed, will constitute a serious encroachment on the rights and powers of the constituent units of the Indian Republic. I thought that the considerable amount of pains through which I went on the day when I moved the motion for reference to Select Committee would have shown that the powers

enumerated in article 369, quite a number of them, have necessarily been absorbed by the Centre by virtue of a declaration under item 52 of List I of Schedule VII, and some of the items mentioned in the amendment to item 33 would also constitute indirectly, or perhaps directly, something which is necessary for sustaining the industries which have been declared to be of national importance, and which leaves only a very large residue or lay-off, namely, foodstuffs. I think hon. Members here who participated in the debate also stressed the need for some kind of an overall regulation by the Centre in regard to foodstuffs, having in view the fact that we have several constituent units in the Union which are deficits so far as foodstuffs are concerned. I cannot see how the question of providing a regulatory measure, should that be necessary in order to safeguard the interests of the weaker units in the Union in respect of foodstuffs, would be a serious encroachment upon the powers and rights of the constituent units as a whole.

There has been either a slight—shall I say—misapprehension or a misreading of the nature of concurrent powers, indicated in the Minute of Dissent. I would like later on, if I may, to deal with this particular aspect of the position of concurrent powers in a Federation. The existence of concurrent powers in a Federation has been recognised after the Federal Constitution has been framed, in the American Constitution. And it is now admitted by all experts that the mere existence of concurrent powers is not a fact which detracts from the quantum of power that is conferred on the two parts of a Federation, namely, the Union and the units.

One phrase has been used here particularly which looks very attractive but which is extremely dangerous because of its connotation and, therefore, misleading. The phrase that has been used occurs here:

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"Under article 369 if Parliament fully exercises its authority, as it has already substantially done, the doctrine of 'occupied field' will preclude the States from exercising their legislative powers in respect of these matters."

The doctrine of 'occupied field' in relation to concurrent powers, the extent of 'occupation' has to be read with a lot of caution. The phrase looks very attractive and might hit the headlines. [Some paper might say that so-and-so has dilated on the theory of 'occupied field'.] But I will warn hon. Members that the question of 'occupation' is purely relative, as everything is relative here. In any Constitution when you discuss the powers of the Union and the units, the position is really relative, and the 'occupied field' does not completely shut out the initiative of the States.

I also indicated here, when I spoke on the last occasion, about the existence of the proviso to sub-clause (1) of article 73 which definitely demarcates the question of executive responsibility. And the fact has also to be borne in mind that in the administration of the powers vested in the Union under article 369 the blurring of responsibility has been as little as possible; the encroachment into the State field has been almost negligible. I have had no complaint which I have seen on record of there being any undue exercise of the Union's authority in the State field. [I therefore beg of hon. Members not to be lured by the attractive phrase used and put within inverted commas. We will hear a little more about it when the legal experts start speaking.]

Shri A. M. Thomas (Ernakulam):
Not a little more; much more!

[Shri T. T. Krishnamachari: Again, it is purely relative. What is little to me might be much to my hon. friend and vice versa.]

The situation which confronted the Constituent Assembly when framing the Constitution was not basically different from what it is now. I beg to join issue with the hon. Members who have written the minute of dissent and have envisaged a situation at that time which is not basically different from what it is today. I thought I had made myself clear when I spoke initially that so far as the devising of article 369 was concerned, it was more or less an extension of the powers that were conferred on the Central Government in India by the amendment of the Constitution in 1946, and the items covered by article 369 were altogether the same as those that were covered by the amendment of 1946 which sought to perpetuate a war time measure. So it would be wrong for hon. Members to presume that the perpetuation of a state of affairs that existed during war time in 1946, which was copied in 1949, would not represent correctly the position that obtains in India today. If, on the other hand, we had felt at that time that the situation had to be gone into more carefully, quite a number of subjects mentioned in article 369 would not have found a place there, because we could have provided for the Central Government taking powers under item 52 of List I of Schedule VII. If hon. Members had said the position today is different from what it was in 1949 in that, as somebody mentioned, the food situation was comparatively satisfactory, perhaps they might be carrying with them an element of truth. Unfortunately, this is not quite a correct picture.

I think one paragraph in the minute of dissent is completely out of place. It is said "the psychological aspect of this important constitutional problem should also be taken into account". Well, I quite agree. Psychology plays a very important factor in not merely the actions of the units of a Federation and the Union but also in regard to the individuals that determine the fate of the administration in both these areas. They

say "the assumption of such wide powers by the Centre"—I am afraid my hon. friends have been allowing their imagination to carry them away—"the assumption of such wide powers by the Centre would make local and regional enterprise which is so essential for an even development of industries in different States, to be paralysed by a concentration of power at the Centre." I cannot understand. The industries covered are the industries which are already under the Union control, namely, the jute industry, the cotton industry, the *vanaspati* industry, the sugar industry. And therefore the area that is left to the States in respect of the industries covered is practically nothing. But, to say that this amendment is going to ruin the industrial initiative of the States, is, I think, pitching the imagination rather high.

A word has been said about the Commodity Controls Committee. I must tell hon. Members that, after all, when you proceed to recommend to an august body like Parliament a change in the Constitution, an enquiry has to precede it. I never claimed that the Commodity Controls Committee was composed of high-powered people. But, I must submit that it was composed of people who knew, who have no political bias.

Shri Asoka Mehta (Bhandara): Why was there no representative from the State Governments?

Shri T. T. Krishnamachari: The Commodity Controls Committee was not intended to provide a basis for the amendment of the Constitution. It was intended..... (laughter by Shri Asoka Mehta). There is no point in laughing. The truth has got to be told even if it evokes laughter in my hon. friend. He has a debating advantage over me; I do not mind it. I must admit the truth. The truth was that it was intended for the purpose of streamlining controls. There were various regulations in the

States regulations in the Centre, conflicting oftentimes, which led to decisions which were difficult. The idea was to find out what were the regulations in the States, what were the regulations in the Centre, to examine the whole thing and make a report.

Shri Asoka Mehta: It was not deemed necessary to find out the States' point of view in coming to a conclusion.

Shri T. T. Krishnamachari: My hon. friend would please forgive me if I ask him to read the report. The State Governments' point of view was very well represented, because the State Governments were consulted. The Planning Commission was consulted. Interested parties were consulted. It does not necessarily mean that in an enquiry of this nature, the mere fact that the State Governments' representative is there is a matter which lends weight to the point of view. In fact, we have so many States and if we had called 27 representatives, the Committee would have been unwieldy. The position was, the States' point of view was taken into account. I am not quoting the Commodity Controls Committee's report as the law of the Medes and Persians. I am merely submitting to the powerful wisdom of hon. Members of the House to make a decision. I said that these are the facts prepared by the Commodity Controls Committee for your consideration. I think my hon. friends who submitted this minute of dissent were wrong. If they wanted a stick to beat the Government with, they are at liberty to use anything. I do not complain. After all, once I come forward with a Bill of this nature, my devoted head is always available for anybody to use any club. I do not think it is at all necessary to drag in this Commodity Controls Committee's report which was really factual. The facts that were elicited by the members of the Committee were to be placed before the House. You may accept them, you may reject them, you may say, the Committee was not high-powered, you

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may say that these people were ignoramuses. You may say that reliance was placed on that report. Some reliance has to be placed. If I place reliance on the printed minute of the seven hon. Members who have submitted this dissenting report, I have got to place some reliance on the facts submitted by the Committee.

[Anyway, that is merely drawing a red herring. I humbly suggest to the House not to take serious account of the criticisms levelled against the Commodity Controls Committee's report. I would submit, even at the risk of repeating, patting myself on my back, that the factual findings of the Commodity Controls Committee are highly valuable.]

[Pandit Thakur Das Bhargava (Gurgaon): They have not been criticised here. It is only stated that the States' representative was not there. The arguments advanced by us and them have not been controverted.]

[Shri T. T. Krishnamachari: That is for my hon. friend when he speaks. I shall not exhaust the lines on which the various speeches should proceed. In all conscience, here, the bones that we have to share amongst 400 Members is a small one, and I think it is rather difficult to get our teeth at it—the Bill is an innocuous one and a tame measure—and one need not work oneself up to a pitch of enthusiasm which is not merely unreal but which is completely illusory. I commend the Bill.]

[Shri K. K. Basu (Diamond Harbour): It is not innocuous.]

[Mr. Chairman: Motion moved:]

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

Shri Asoka Mehta: I would like to congratulate the seven Members of the Joint Select Committee for the brilliant and lucid minute of dissent

that they have given us. I would like to underscore my agreement with the seven weighty arguments, that the minute of dissent has placed before us and I would like to put forward a few additional or supplementary arguments. I would like to point out that all Parties other than the Congress Party are today opposed to this amendment.

Pandit K. C. Sharma (Meerut Distt.—South): What is their total number?

Shri Gadgil (Poona Central): What is the strength of the argument?

Shri Asoka Mehta: As far as the Congress Party is concerned, it is itself divided. The division of the Congress Party is clear from the fact that a large number of States or Governments which are in the hands of the Congress Party are opposed to this amendment. As regards the attitude of the States, what do we find? The biggest province in India, the U.P., has expressed no opinion. It is not listed here. Four States are opposed: Assam, Bihar, Bombay and Travancore-Cochin. No replies have been received from Madhya Pradesh, Mysore and Madras. Andhra has it under consideration. Agreement has been expressed by Madhya Bharat, Orissa, P.E.P.S.U., Saurashtra and West Bengal. These States put together do not have a population of even one-fourth of the total population of this country. Some of them are small; some of them, I may be permitted to say, are mostly client States of the Central Government. May I invite the attention of the hon. Minister who moved this amendment sometime back, that in the course of his observations, he had said:

"To sum up the reactions of the States....."

Shri A. M. Thomas: May I point out to the hon. Member that the Travancore-Cochin Government on a previous occasion had accepted the

recommendations of the Commodity Controls Committee that the Centre may have the powers of control over essential commodities?

Shri Asoka Mehta: May I also point out that the present Travancore-Cochin Government which is the only Government which is not controlled by the Congress Party has said:

“Regretted inability to agree to the proposals.....”

An hon. Member: You have the controlling interest. (*Interruption.*)

Shri Asoka Mehta: “Regretted inability to agree to the proposals adding as the State Government would certainly be expected to undertake any legislation to implement the policy of the Centre in the general interest, a transfer of the power to the Centre was not necessary.”

You said that Mysore had shown agreement. The Travancore-Cochin Government had also shown agreement. We find that Mysore has so far expressed no opinion on this amendment. Travancore-Cochin has definitely opposed the amendment.

May I also point out that this Constitution was drafted under serious economic vicissitudes? The wholesale price index had jumped from 302 to 390. There was a net draw on our foreign exchange to the extent of Rs. 227 crores. While the Constitution was being drafted, the founding fathers had before them the experience of control, de-control and re-control. In the light of these experiences, the founding fathers thought it proper to frame a Constitution as it has been framed, providing only transitional and temporary powers. They are sought to be made permanent today. It has been argued that unless these powers are taken, it will not be possible for us to look after the organisation of production and growth of raw cotton and the rest of it. What do we find? I believe that the Government had no such powers so far as raw jute

was concerned. May I invite the attention of the Government to the growth of production of the raw jute in this country, between 1947-48 and 1952-53 on the one hand and the increase in the production of raw cotton, on the other during the same years? What do we find? In jute which was not controlled from the top in the sense in which the hon. mover of the Bill wants to control it today, the increase was to the extent of 300 per cent. while cotton production that was completely controlled from the top increased only 150 per cent. Let it not be said that without control it is not possible to bring about development and expansion. It has been argued that in all these commodities that are listed in this amendment, there is the danger either of over-all or lone shortages. If there is over-all shortage, that is a special situation for which the necessary provisions have been made in the Constitution. If there is a lone shortage in any particular commodity, this very Commodity Controls Committee has pointed out what needs to be done. On pages 58-59, the Committee has pointed out:

“It would, therefore, be advantageous to transform gradually the present ‘food administration’ into a ‘buffer stock administration’ wherever feasible so that in the course of time the latter may become a very useful instrument for stabilising the price level in the country protecting both the consumer and the producer against undue fluctuations in prices.”

What is stated, what is suggested is the creation of a buffer stock administration, and I do not understand why in creating a buffer stock administration, these powers need be taken away from the States.

The authors of the minutes of dissent have invited our attention to the progressive pulverisation of States’ power, and I believe they have done a signal service by drawing our attention to it. Control of these

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matters will not be possible unless and until it is extended also to control over crop planning and cultivation. May I invite the attention of the hon. Mover to the report of the Uttar Pradesh Controls Inquiry Committee. In page 4 as an illustration the case of peas is mentioned. They say:

"The result is that the area under cultivation of peas has been progressively increasing during the last five years and in 1950-51 it was 21,00,000 acres as compared to 16,00,000 acres five years ago. Pulses are also freely exported to other States. The overall availability of foodgrains is considerably reduced so far as the consumer in the U.P. is concerned. The export last year of peas exceeded 1,00,000 tons."

Therefore, Sir, once you begin to control the production of foodgrains, you will inevitably have to control crop planning and there will be thus an expanding encroachment on the rights of the States. There will be a progressive erosion of the State powers. Not only is it a question of progressive erosion of State powers, but a much more vital issue is involved in this. There is the danger, there is the possibility of side-stepping of democratic processes. The Government must learn and teach the art of democratic adjustments.

May I, in this connection, invite your attention to a memorable statement by an outstanding authority on democratisation of administration. I refer to Mr. David Lillienthal.

He says:

"This matter of making a choice available, which is the duty of leadership, seems to me critically important. There are two ways of going about many of these matters. There, for example, is a steep slope which has been denuded of trees by the farmer. He has to make a living. He needs

this steep slope to grow the things that will keep his family alive, and so he cuts the trees down and plants his corn, and the soil is washed off in a few years, and the nation has been robbed of just that much of its capital assets. . . . Now one way of going about it is to say, "We will pass a law that any farmer who cuts down the trees and cultivates a slope steeper than a certain grade is incapable of farming. He is injuring the community and the nation, and by this law we will take his land away from him and turn it back into forest or meadow." That is one way. . . . Then there is the other method of giving the farmer a chance to make a choice; recognizing that the farmer does not cut down those trees because he enjoys cutting down trees or because he likes to see the soil washed off and destroyed but because he has a problem of feeding his family and making a living. Give him a choice—a free choice—by making it possible for him to use his land in such a way that he will not only be enabled to support his family but at the same time protect that soil against depredation. This is only one illustration of many of this conviction I have that a man must be given a free choice rather than compelling his choice or having supermen make the choice for him."

We, Sir, find here that supermen want to make the choice not only as far individuals are concerned, but as far as States are concerned. Why can we not give opportunity to the States? Why can we not bring the representatives of the States together round a table and see that an agreed formula is hammered out, as the Government of Travancore-Cochin has suggested? You must give them an opportunity. You must try to carry conviction to them. You must try to carry the representatives of

the States with you. You may be able, in the plenitude of your power, to brush aside the States. You may occupy a certain territory of power because of the special rights that you are going to get once this amendment is accepted, but what will be the result? Unless and until you can satisfy the people of the States concerned that justice is being done to them, will you be able to carry through whatever reforms or whatever administrative changes you want to carry through. Can you afford to bypass the people? After all, if you think that the States are being recalcitrant, please remember that the recalcitrance of the States will always be reflected in the recalcitrance of the people, and you cannot brush aside the recalcitrance of the people. You must learn, you must educate your people to discover ways and means of adjustment. That is the very essence, that is the very art of democracy.

May I, in this connection point out that we may ignore the moral dimension of the grass roots approach only at our peril? It is an obligation in connection with resources development that the local governmental institutions be strengthened rather than weakened, that they be supplemented rather than supplanted. I would like to emphasize that the resources of a region include its institutions, particularly its governmental agencies. It has been argued that after all the concurrent powers are sought only as contingent powers. That is not the intention of the hon. Minister. He wants to use these powers. Last time while moving this amendment, he made it very clear that he wants to use these powers. These are not merely contingent powers. They may be called concurrent powers, but they are going to be used and used in the near future. You may try to bypass, you may try to side-step democratic forces in this respect, but you will not be able to run away from them. There will be differences of opinion between Ministries themselves. As we know,

there has been differences of opinion recently. How are you going to resolve them? Inside a Ministry, inside a department, there might be acute differences of opinion. How are they to be resolved? I would not, I do not propose to refer to any incident or any experience in our country, but may I cite as an example the experience from a foreign country. It is pointed out:

"There arose consequently a conflict between two agricultural groups, and indeed between two groups within the U.S. Department of Agriculture. To be specific, this conflict between the Extension Service, the Agricultural Adjustments Administration and the Farm Bureau on the one side, and the Farm Security Administration and the farmers on the other."

I think this kind of conflicts are inevitable. How are they to be resolved? By taking over more powers, by pushing aside the people with whom adjustments are to be sought, or by learning to sit with them, by making them realise wherever the larger issues of the country are involved? They must learn to arrive at agreements and adjustments. That is the approach, the grass roots approach to democracy. If that approach is given up, the result will be that the arteries of adjustments will harden, and all short-cut adjustments will mean that power will get increasingly concentrated into the hands of the few people at the top.

May I end my observations by quoting the wise words of one of the foremost seers of democracy? I refer to the famous French writer, De Tocqueville:

"Although a centralised administration can bring together at a given moment, or a given point, all the disposable resources of a people, it injures the renewal

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of those resources. It may ensure a victory in the hour of strife, but it gradually relaxes the sinews of strength. It may help admirably the transient greatness of a man, but not the durable prosperity of a nation."

May I therefore appeal to the Mover of the Amendment not to get interested, not to get intoxicated by the thought of the greatness of a man, whoever the man may be, but to think in terms of the durable prosperity of the nation? By this amendment you are going to weaken the sinews of strength of our nation. I hope and trust that will not be done.

Shri K. K. Basu: This Constitution Amendment Bill which has been introduced by the Commerce Minister has been passed off as a very innocuous piece of legislation. It has become more or less the habit with the Ministers that whenever any reactionary legislation is brought forward, it is always tried to be pushed in as an innocuous piece of legislation. We will have to judge from the aspect of our constitutional democracy, whatever there may be in our country, the implications of this amendment. The hon. Minister tried to ridicule to some extent the note of dissent that has been submitted to the report of the Joint Committee, by practically all the Members of the Opposition that there were in that Committee. He has now come forward with this amending Bill, saying that it is absolutely necessary in the interests of the country. We have got to judge to what extent that test is satisfied. In justification of his claim, the hon. Minister has also referred to the report of the Commodity Controls Committee, about which my hon. friend Shri Asoka Mehta has spoken at length. When the motion for reference of this Bill to a Joint Committee was being discussed here, the hon. Minister has also tried to say that there is a section of the States, which has supported this proposition in regard to the amendment of the Constitution. But if we analyse, as Shri Asoka Mehta has done,

the character of the States which are in support of this measure, which have the matter still under consideration, and which are categorically opposed to this measure, we shall find that the hon. Minister's claim that the States in general are inclined to accept this amendment does not hold any water.

We have to judge whether in the present context of things, so soon after the Constitution has been enacted, we should try to amend certain provisions which the Constitution-makers have after due deliberation, deliberately put in the Constitution. For instance, there is article 369, which contains certain provisions in respect of certain commodities, which fall, according to normal understanding and normal connotation, under the purview of the activities of States. In respect of these commodities, powers of control have been given to the Centre under article 369, only for a specific period of five years. Even at that point of time, when, as my learned friend who spoke before me has pointed out, the situation in the country was abnormal, immediately after the war, and when after the partition, there was trouble in a large part of our territory, and when the food situation was very bad, and the position was bad regarding many other agricultural commodities also, even in those circumstances, the Constitution-makers, who practically belonged to the party in power today, deliberately and after long discussion put this limitation of five years. If they had thought that in the interests of the nation, these powers might be kept in the Centre permanently, they would have put in a provision to that effect then and there, and these powers would have been given to the Centre for as long a time as they might have chosen. But that has not been done.

The other day, one hon. Member was trying to suggest that no planning was there at that time. If you see the basic principle behind the Constitution, if you read the Fundamental

Rights Chapter, or the Chapter on Directive Principles, you will find that it is clear that our Constitution makers had clearly in mind the idea that we should not have *laissez faire* in our country, but that there should be some sort of control or some sort of limitation on private rights. Therefore, the Constitution-makers could have easily embodied a provision in the Constitution, when it was drafted, to the effect that these powers will be with the Centre for all time to come. But they have deliberately chosen to give this power only for a limited period of five years, because they thought that within a period of five years, the situation will come to normal. We have been told by our Food Minister that the food situation has improved. In some States, in some places, it might have improved to some extent. Again, so far as the cotton situation is concerned, it was stated in regard to the limited stocks that we had in a particular area, that there was nothing to worry about. Then, I come to jute. You know that I come from a State which is practically the largest producer of jute, and there this problem is very acute. But even then, I would ask what justification is there for Government to amend the Constitution in this manner. When Government themselves say that there has been improvement in the food situation, and there is nothing to be worried about so far as the cotton situation is concerned, what justification is there for Government to try to have this power for all time? If you say, well, in the States also, we have our own Governments, instead of the States having it, we are going to have the power, why should you feel worried, after all, you have your own Congress Governments in different forms, or different colours in different parts of the country, if you say like that, I would say that it is a vague principle, because we have adopted a Constitution after much deliberation, and distributed the legislative and executive powers between the States and the Centre in a particular manner. Why do you want to amend it so soon

after the coming into force of the constitution? In my opinion, the hon. Minister has not made out any case by which he can justify this action of his.

We know that under article 249 of the Constitution it is provided that in the interests of the nation, for a period of one year, the powers which normally fall within the purview of the State may be given over to the Centre, provided that at the end of that one year, if the problem still continues, these powers may be continued in the Centre, if a resolution to that effect is passed by the Rajya Sabha. Even here, a distinction is sought to be made between the Lok Sabha and the Rajya Sabha, and the provision has been put in a peculiarly limited way. Only if the Rajya Sabha passes a resolution to that effect, can these powers be exercised by the Centre. In the Constitution, the Rajya Sabha is deemed to be representative of the States and they should pass a resolution that in the interests of the nation, these powers should be allowed to be exercised by the Centre, and then only the Centre can have these powers. The Constitution-makers have deliberately said that this Resolution should not be passed by the Lok Sabha, but that it should be left to the Rajya Sabha, which is constituted of the representatives of the States. I would urge upon the House to understand this basic distinction which the Constitution-makers had kept in view, because they thought that it was just possible that in the Lok Sabha, two or three States may combine and have a majority by which they can pass this resolution. But the constitution of the Rajya Sabha is such that the domination of a particular State can be flouted, because of its peculiar composition. Only if the Rajya Sabha passes a resolution, can certain rights of the States be abrogated in favour of the Centre, in the interests of the nation. Then and then alone is the Centre competent to pass a legislation. This distinction was deliberately made by

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the Constitution-makers. Otherwise they could have very well said that the Lok Sabha could pass such a resolution, and under entry 52 in List I, or entry 33 in List III Parliament may by a resolution say that in the interests of the nation, the Centre should pass a legislation, so far as a particular industry is concerned. But that they have not done. Under article 249, they have made a deliberate distinction and restricted the power to pass a resolution only to the Rajya Sabha. We must understand clearly the principles which actuated the Constitution-makers to make this distinction. The principles are that they wanted to protect the rights of the States.

I fully agree, as some hon. Member said, that our Constitution is a unitary Constitution, and therefore, the residuary powers should be vested in the Centre. That may be so. Even so, because of the character of our national movement, and because of the lines along which our national movement has developed, we tried to give certain powers to the Centre and certain powers to the States, and all along, it has been the attempt of the Constitution-makers to guard and protect the interests of the States, in whatever sphere it might be. That being so, I cannot understand how so soon after the passing of this Constitution, Government can come forward with a legislation which practically does away with the powers of the State. If they want to do so, let them come forward, and do away with the whole Constitution as it stands; let us have one unitary Constitution with powers in the Centre, and transfer all the States' powers into municipal powers. Let them do it by all means. Let the hon. Minister be frank and honest enough to come forward and say, we have had four or five years of experience of this Constitution, we have experienced a lot of difficulties, we should not have a federal Constitution as we have today, but we must have a unitary

Constitution with powers in the Centre, and let the States' powers be turned into municipal powers. I would submit that when we are making an attempt to grow a particular kind of democracy in our country, it should be the effort of every Member, irrespective of party affiliation, to see that we do not allow such precedents whereby it may be said in the future that we have made an attempt to do away with the basic principles which underline the framework of our Constitution.

Some hon. Members said that they were not convinced of the necessity of this legislation, and also of the *bona fides* of Government to some extent. I am also not convinced with the *bona fides* of Government Powers there were in the hands of Government under a certain article, and they could have done many things. But what did they do? Two years back, when Dr. P. S. Deshmukh was not in the Government but was an ordinary Member, there were questions put regarding the floor and ceiling prices of cotton. That was a time when Government could have given some protection to the cotton growers. But did they come forward to give protection? Did Government come forward then saying that these powers should be taken in the interests of the people, or in the interests of the nation? Did Government come forward to save them at that time?

Again, only the other day, there was a discussion about the crisis in the mica industry. Government had power under item 52 in List I. But did they to save the ordinary workers, the ordinary people whose fate was also linked up with the fate of the mica-industry. Government did not do anything at that time, and you know very well what happened in that regard.

Again, in regard to jute, what is the position? If the Constitution is amended, will Government care to come forward to save the ordinary workers, and the growers of jute? Have they as yet done something to

save the jute growers who are suffering in the present context? The hon. Minister himself knows that while jute is sold in the Calcutta market at the rate of Rs. 26 or so the growers get only Rs. 14 or 15. So, here also, you know what the fate of the jute growers is. Are Government willing and prepared to come forward, whether power is there or not, to give protection to these people who are suffering? They will only want to get the power in the interests of big business, because, as I have said earlier, as yet I am doubtful about the *bona fides* of Government. Government have behaved in such a shameless manner in the case of the Bank Award, with a view to serve the interests of big business. We are not going to accept that Government are doing all this for the sake of the common man.

We have seen also what happened in the case of the sugar industry. I think year before last, in the November session, the hon. Minister of Food and Agriculture came forward with a Bill to levy a temporary cess on sugar, and that cess was sought to be justified by saying, will, after two months, new sugar will be coming into the market, and we will get sugar cheap, to adjust the price, we are having this temporary cess. But what did we see? Two months after, the sugar price did not go down. There was a crisis, and it went on going up above the means of the common man. Then, our Minister came forward saying, what can I do, our people are consuming more sugar, they have begun to take more sugar, and therefore the prices have gone up. The Congress Party has been in power for the last so many years but they have not been able to solve the sugar problem so far. I am told that these sugar magnates have made a contribution to the election fund of the Congress in the last general elections.

3 P.M.

Sir, this is the position. I am not going to accept whatever facts the

Ministers place before us. They say, we do this in the interests of the common man. My hon. friend has said that fertilisers have not been supplied. It has been boasted that we have been able to solve the rice problem in the country. The Central Government has, under the existing orders, worked and behaved in a fashion which does not justify it to be entrusted with the power to abrogate the power vested in the States. Therefore, Sir, I urge upon my hon. Members, irrespective of party affiliations, to consider carefully what steps they are going to take. The Constituent Assembly passed a resolution regarding a particular article and then deliberately reserved the right of the Centre regarding a certain matter for five years. They have also said that the States power may be used by the Centre if the Upper House passes a resolution and that by passing a resolution to power may continue. That means that our Constitution-framers, at a time when we were passing through a crisis as a result of the war and the partition of the Country, have deliberately put a spoke to the power of the Centre. As my hon. friend has said, if such power is given, the time may come when the Centre will feel like taking over most of the other powers.

I am now going to deal with the Commodity Controls Committee's Report. What I feel is that ever this Commodity Controls Committee might have made some recommendation because they had a particular point of view regarding certain articles. Take the case of jute. We know from our experience, as I come from a State which is the main jute growing area, that the interests of jute growers are being jeopardised under the present low market price. They do not get the economic price. They even do not get the price as available in the Calcutta market. When in the Calcutta market the price of jute is Rs. 26, the jute growers hardly get Rs. 15 to Rs. 16. After the partition when we had very little of jute, the propaganda

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was made by this Government for increasing the jute acreage so that jute industry in our country, which is largely owned by British and other big businessmen, may survive the crisis, but subsequent to that when the prices of jute came down to such a low figure, the Government did not come forward to save the growers by price protection or similar policies so that the growers may get an economic price for their produce. As Mr. Asoka Mehta has said, the production has gone up by 300 per cent. I do not know what will happen two years hence. Therefore, I feel that the Government, if they are so sincere, should help the growers and the common men who are connected with this particular industrial trade. They have enough powers with them and they could have saved the growers from this crisis in the prices of the jute which growers get under the present circumstances. They can arrange for the supply of cheap credit and machinery for marketing may be brought in, so that middle-man's profit, as it is rampant today in the jute trade, may be done away with and the cultivators assured of fair prices. They can arrange the free supply of fertilisers and many other things. There are many methods of controlling and influencing the price of market under the existing system which the Centre might have utilised if they had so chosen in the interests of the cultivators and the trade. But here it seems the Centre is not inclined to act in the interests of the common man and they are more inclined to work for the benefit of the big business. Even under the proposed legislation, unless the existing powers of the States are completely abrogated in favour of the Centre, the Centre might say that it cannot make its policy workable as it abridges the provisions under the proviso to article 73. Therefore, I personally feel that the existing order has adequate provision for working the policies of the Centre if they so choose, which the Centre wants to exercise under

the proposed legislation. Some hon. Members had said the other day that under the Plan control was necessary to make the basic idea of it a success. Under the Plan we have fixed the target of 60 per cent. increase so far as jute is concerned. We have also fixed 40 per cent. for the cotton so far as the production of these goods is concerned.

What we do should benefit the growers and the community at large. If the Government say that they want to control jute—the production of jute fibre—because we know that our jute millowners are making enormous profits, I have nothing to quarrel about it. But let them be frank and sincere about it. Therefore, personally, from the way the Government have been behaving so long, I do not accept their *bona fides*. I would only urge upon them to consider this carefully. Within four years of the passing of the Constitution, you want to amend it in such a way that it completely abrogates a very vital and important power of the States. I would ask my hon. friends to be very careful in this matter. It is our duty to guard against the taking away by the Centre of whatever democratic rights of control vest in the States in terms of the Constitution, which the framers of the Constitution, after due deliberation, had vested in them. These are now being sought to be taken away by this Act. We should not support the passing of this legislation which leaves the States without these powers. If you want to do anything in the interest of the nation, in the interest of the community at large, you have enough machinery with you and you can use your powers, but you should not deprive the States of the powers vested in them by this Act.

Shri U. M. Trivedi (Chittor): On a point of order. Are those who took part in this debate when the motion was moved the only persons who are on the list to speak?

Shri K. K. Basu: I did not take part.

Shri U. M. Trivedi: I am not mentioning you.

Mr. Chairman: There is no hard and fast rule.

Shri U. M. Trivedi: We must also get an opportunity when those who have already spoken have expressed their views.

Mr. Chairman: I have no record with me now of those who spoke when this was originally moved.

Shri U. M. Trivedi: I do not remember who spoke at that time.

Shri V. B. Gandhi (Bombay City—North): May I speak?

Mr. Chairman: Mr. Gadgil.

Shri Gadgil: I am very sorry to observe that the whole question has been approached from a somewhat wrong point of view. In fact, my friend, Mr. Asoka Mehta, has literally drawn a red-herring across the whole thing. The point is not that we are doing something which is not justified by the wisdom inherent in that decision itself and that we are going to carry it by the force of sheer majority. I have noted what he has said about the fact that all the parties other than the Congress have joined in the minute of dissent, and he hinted that in spite of that fact, the measure would be carried. I would to assure him that my approach to this is not because I belong to the majority party, of which I am certainly proud, but I am convinced in my mind that a Bill of this character is absolutely necessary and it has been introduced none too soon.

Now, reference was made about the fathers of this Constitution.

Dr. Krishnaswami (Kancheepuram): Founding fathers. (*Interruption*).

Shri Gadgil: I plead guilty to the charge that I am one of them. I say that the background, not only so far as these provisions are concerned, but the general background of our Constitution, was this. In the beginning,

in the month of December 1946, when there was no partition the entire political trend, as was expressed in the debate and discussions on the various main principles on which the Constitution was to be based was, that more power and greater and fuller autonomy should be reserved for the provinces. But the entire political scene changed after August 15, 1947, and in the light of the circumstances then prevailing, the atmosphere was not that there should be no autonomy to the provinces and no provision of adequate powers for the constituent States, but emphasis was placed more on the powers and functions of the Centre. It was obvious in those circumstances that certain powers with respect to essential commodities must be reserved for the Centre, and at that time, I think the decision so far as article 369 was concerned, was arrived at not on a deeper consideration of all the issues involved, but on pragmatic considerations. Now, the fact that the situation then justified this provision and that the same situation continues today is admitted by the signatories to the Minute of Dissent.

[**PANDIT THAKUR DAS BHARGAVA** in the Chair]

Here is what they say:

"We are fully alive to the necessity of clothing Parliament with the necessary authority to keep certain matters under Union control in view of the needs of planning. The situation which confronted the Constituent Assembly when framing the Constitution was not basically different from what it is today. The framers of the Constitution were also fully alive to the needs of planning and the maintenance of control by the Centre over specified matters".

Those who are now running the Government are equally fully conscious of the present position. After all, what do those people who are against the provisions of this Bill say in the

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last sentence of their minute of dissent?

"We suggest that the period specified in article 369, if its extension be considered essential, may be altered so as to make the total period of Parliament's competence extend up to ten years".

Which means that they concede that the provision of such a power is absolutely necessary, the situation is not basically different and that they are agreeable, in spite of all they wish to say about democracy, decentralisation and powers and functions of the constituent States, that for a period of another five years the present powers may be continued. **Boiled down, the difference seems to be this—whether the power should be for five years or whether the power should be put permanently on the statute-book as belonging to the Centre.** Now, my humble view is this. The Constitution must be interpreted in the context of a living and progressive community. It is not a dead letter. If in 1950, the situation basically, according to these gentlemen, was as it is today, then there is a greater reason for us to think much more radically and basically and instead of adopting a period of five years and again renewing it, it is much better here and now, if we are convinced that certain powers must be reserved to the Centre, that we do it permanently. And let me add that this power is to be exercised by the Centre with the help and co-operation of the constituent States. It is not that the power has been exclusively claimed by the Centre or that the Centre, if at all it wishes, can exercise it in defiance of the attitude of the States. That is not possible. Even under article 369 of the Constitution, when this Bill is enacted, it has to be ratified by the constituent States. Now, the constituent States have been consulted. My friend, Mr. Asoka Mehta said that only four States had agreed, and he worked out the population of those four States. Let us take into consideration how many have agreed, how many have not

agreed and how many are still considering the matter. The position is that some are still considering, some have agreed and some have not. In the light of this, it is very difficult to say that the majority is for or against. But whatever be their views, the test is not what the States say, but what is desirable and what is absolutely necessary. And what are the commodities in respect of which these powers are sought? (*Interruptions*). My friend, Mr. Asoka Mehta, is probably aware that when rationing was there and articles or commodities were being sold at a particular price in limited quantities in the Bombay State, at a distance of ten miles, from Bhusaval in the State of Madhya Pradesh, there was no control and no rationing—or at least there was more liberal rationing. The whole picture was this. While people in the Punjab and U.P. were getting not only as much as they wanted, but much more, people in the States of Bombay and down south were living with just enough to keep their body and soul together. We were told that we were citizens of this country, but the discrimination that we actually experienced in our life was so great that some of us wondered whether we were at all citizens of this country, when we found on one side of the country people living in abundance and on the other side, people living in scarcity, always in danger of famine. There was no integrated food policy so far as the whole country was concerned. This fact was realised in 1949 and 1950 and additional powers were taken by the Central Government. It was after the taking of additional powers by the Central Government that some relief was available to the various States. The position in this country is that we have simultaneously abundance on the one side and scarcity on the other with floods and famines. Now, this is not a small country, it is a big Continent consisting of 27 constituent States. We must have a policy which will be rational, which will be doing equal justice as bet-

ween all the constituent States. Now, if it is agreed that there must be control so far as Defence matters are concerned, if it is agreed that there must be control by the Centre in matters of Communications and such other important services, I want to ask the Members of this House, in all fairness is it not equally necessary that for the proper and adequate provision of the primary necessities to all the citizens of this country, the control of these should be in the hands of the Centre?

You are talking about planned economy. I cannot conceive of a planned economy functioning efficiently unless it works with the mechanism of control and co-ordination. This power is absolutely necessary because you want to live; you want to feed your population. If you let go this control which is bound to expire a few months hence, what will be the position? Whenever appeals were made to Madhya Pradesh Government and Madhya Bharat Government, they were not of any use; no avail at all. Therefore, in the light of experience which we have, particularly in the Bombay State, I for one would say that it is absolutely necessary.

Shri Asoka Mehta: Bombay State has opposed this amendment.

Shri Gadgil: That is something which I do not want to say to be correct. Take the view of the Bombay people.

An Hon. Member: What is their view?

Shri Gadgil: I represent them and I tell you, when control was removed, the only State that opposed it as a State and as a people—people in Poona, people in Maharashtra, people in Bombay—was Bombay. Now, Bombay is still a deficit State inspite of the Planning Commission's long-term and short-term schemes which are still on paper. I do hope that some of them will be implemented, but the broad fact remains that Bom-

bay State is a deficit State in the matter of food.

Now, if we do not renew these powers, what will happen? We know what happened in the past. We do not want to have that costly experiment once more.

Take also the case of cotton. Bombay Government is very much against this because about 180 mills out of 400 in this country are situated in Bombay. I know how their minds are working. But, inspite of the fact that there were 180 mills in the State of Bombay, what was the position with respect to supply of cloth in the year 1947 and in 1948? We were not getting enough cloth and the cloth we got was at exhorbitant prices. In 1948 about the month of January or February when cloth was de-controlled, between that time and the time when control was reimposed, within those three months, according to the figures given by Shri K. K. Desai, the present Labour Minister, the millowners made a profit of Rs. 200 crores.

Shri N. C. Chatterjee (Hooghly): What were you doing?

Shri Gadgil: Just consider what will happen if there is complete de-control. I want to appeal to the socialist in Shri Asoka Mehta; I want to appeal to you, to consider what will happen. Cloth will be sold at higher price and the supply of primary necessities will not be there. I am, therefore, telling him with the experience of the past that this is absolutely necessary. If you are agreed that there must be planned economy, then the Central direction must be there. I am not telling the Government to take over the power and completely administer it. As I said a few minutes ago, this power can only be exercised with the co-operation and proper co-ordination with the activities of the constituent States. The powers are not sought to be the exclusive possession of the Centre. These powers will be shared by the Central Government. At the same time, in as much as this item

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is being brought into the concurrent list, the constituent State Legislatures have a right to pass similar Acts but they must not be repugnant to the Central Act. The whole thing is: do you want this democracy to be decentralised or disintegrated?

Shri M. S. Gurupadaswamy (Mysore): Decentralised.

Shri Gadgil: This will not be the result of what you propose. It will not be decentralisation because there will not be one overall, co-ordinated central policy or direction. What will happen will be, everybody will be playing his own hand as it happened in the matter of supply of food only five years ago. It is, therefore, necessary; because so far as textile industry is concerned it is an important thing. The other day I called it as having as much strategic importance as of manufacturing arms in this country, because with the increase in production in that industry we can have greater export market and the money that we may earn thereby may be used for our developmental purposes. In fact, I will go a step further as I did the other day. If there is any industry which should be nationalised forthwith, it is this industry, but some time must elapse before this thing can happen. The point is, there is nothing against democracy in this. There is nothing which should offend the sensibilities of the constituent States. The constituent States have got their power. This power is not sought to be deprived, but only shared with their co-operation and in a manner which will be not only beneficial to a State here and there, but which will be beneficial to the whole population as such. The responsibility of the constituent States is primarily for the well-being of the people of that State, but the responsibility of the Central Government cannot be fragmented in this manner. If it is to be exercised in a proper and effective way, I do submit, Sir, that these powers which are sought to

be put permanently on the statute-book are absolutely necessary.

Shri Raghuramiah (Tenali): Sir, when I was listening to my hon. friend Shri Asoka Mehta, I was wondering whether it was a speech on the decline and fall of the Constitution or anything very relevant to the present Bill. I might have understood a speech of that nature if we were enacting a Bill which was wholly in violation of the Constitution. Out of experience of things in the past, on the recommendation of the Commodity Controls Committee and after five years working of the Constitution, the Government has come forward with the Bill merely to make provision for certain matters in respect of which it is very clear in actual practice that there must be a certain amount of central control.

Shri Asoka Mehta has referred to the necessity of consulting the States when we are trying to amend the Constitution. He has suggested that there should be a conference of all the States and that we should not proceed ahead in a matter like this without consulting and obtaining the concurrence of all the States. I am afraid he is trying to read something into the Constitution which is not there. Under article 368, power is given to Parliament to amend the Constitution in matters where the Parliament deems it necessary to do so. So far as the States are concerned, all that the article requires is that the amendment shall be ratified by the Legislatures of not less than one half of the States specified in parts A and B of the Schedule etc. It does not require that every State must agree to the amendment which is proposed. That would be an imposition which would be placing in our way a very great difficulty in amending the Constitution at any time. I suppose, as soon as this Bill is passed by this Parliament it will naturally go to the Legislatures of the States and their requisite consent will be forthcoming

[MR. DEPUTY-SPEAKER in the Chair]

It is one thing to say that we should not amend the Constitution lightly. It is one thing to say that we should not amend the Constitution unless there are extraordinary reasons compelling us to do so. But, I would say with all respect, it is quite another thing to say that we should not amend the Constitution at all as if the Constitution is there to block our progress and not to facilitate our progress. I agree the Constitution should not be lightly amended, but in a matter like this where experience shows that it is very vital that the Centre should have power to legislate in order to co-ordinate the policies of the various States with regard to such vital commodities as food, cattle fodder etc., and also products of industries; in such matters not to amend or to feel shy to amend it is to abdicate the duty which we have under the Constitution. I would most respectfully submit that the question before this House is: not whether the Constitution can be amended, but whether it should be amended and whether there is sufficient justification for it. For that we need not go much beyond the recommendations of the Commodity Controls Committee, and I would particularly draw the attention of the House to what they say in para 41 at page 22 of their report:

"The existing provisions of the Constitution do not permit the enactment by Parliament of a permanent comprehensive law of controls in relation to all commodities. But the need for such a law is so urgent and pressing that the Committee, after carefully considering all its *pros* and *cons*, unhesitatingly make the recommendation that the Constitution should be suitably amended to confer on Parliament the necessary legislative power."

Even in the minute of dissent to the Select Committee Report which is placed before the House, it has been agreed that there is need for having

the present power with the Centre for another period of five years—in fact, they are even prepared to go up to a period of ten years.

Dr. Krishnaswami: From the date of the Constitution.

Shri Raghuramaiah: I am reading the last sentence of the minute of dissent:

"We suggest that the period specified in Article 369, if its extension be considered essential, may be altered so as to make the total period of Parliament's competence extend up to ten years."

It makes no difference whether it is five or ten years. The question is this. Is my friend in a position to say what will be the position in India five years hence? Were the framers of the Constitution, with all their wisdom, able to say correctly five years ago that there would be no need for a continuation of the provisions of article 369 today? If with all their wisdom they could not say so, those who have sent in the note of dissent, with all their wisdom—of course I am not prepared to place it above the wisdom of the Constitution-makers—cannot any more say that this power will not be required after five years. If today circumstances have arisen to make us modify the period specified in article 369, I do not know whether any honourable member can get up and say "I have got greater power to foresee things, and I know such a situation will not arise after five years." This is all speculation in the dark. It is not possible for us to know what the position will be. We can only think in terms of the experience we had and the experience we had is sufficient to bear out the truth that in India, in these vital matters like those specified in this Bill—foodstuffs, cattle fodder, raw jute, cotton, etc.—which go to the vital requirements of the vast mass of the people and which have to be regulated and controlled in certain circumstances, it will be necessary from time to time for the Centre to step in and see that a co-ordinated policy is pursued by all the States. I would like to know if the framers of

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the Constitution would have foreseen the vast and colossal floods that have overcome this country today, that all the rivers could in one day rise in spate and that millions and millions of people would be there without food, and clothes and animals without fodder a situation which calls forth the greatest measure of Central Co-ordination and distribution. A situation like that is not easily foreseen and cannot be foreseen, and therefore, when the Members of the Opposition, who have appended their signatures to this minute of dissent, have conceded the present necessity of having Central control of certain essential Commodities, I would respectfully say that they have in effect conceded the necessity of the Centre having it for a long time to come. Is it their position that after five years we should again come with another Bill like this? Of course, it would give them another opportunity to harangue about the sacredness of the Constitution and say that it should not be amended and so on and so forth. Is it their argument or contention that we should come forward again after five years and say that we want this for another five years? Is the Constitution a matter to be so lightly dealt with? Is it not the very essence of the Constitution that, as far as human beings can conceive of it, it should be permanent? Can we say with certainty as to what is going to happen five years or ten years after and in the light of that decide the permanent structure of the Constitution? I would, therefore, most respectfully submit that the necessity for this amendment of the Constitution is practically conceded even by the Members who have written the minute of dissent. The States, of course, are there to look after themselves. I can quite understand that some of the States will raise objection. Naturally, those who produce jute would like to have more price for it and similarly those who produce cotton would like to have higher prices and the States in which jute and textile mills are operating would like to have jute and cotton at cheaper rates. I can quite conceive of

a conflict between the various States, but what are we to do as Members of Parliament? What is this august House to do in such circumstances? We are here to co-ordinate; we are here not to have any State prejudice; we are here to adjudicate between the various States and see what is necessary for the good of the whole country. Viewed from that point, it does not matter if one State has not agreed to it or another State agreed to it. A distinction has been made by Mr. Asoka Mehta between the Congress and non-Congress States. I think it is wholly irrelevant. India is one and we must have the good of all the States at heart, and it is immaterial whether the States that have agreed to it are Congress or non-Congress States. I would, therefore, submit with all the force at my command that this amendment should be accepted and we should go ahead presuming that the situation which has arisen today is likely to arise time and again and the Constitution is not a matter which should be lightly amended.

Once again I would like to emphasise one point. As I said at the very beginning, it is very necessary for us to remember that the Constitution is not meant to tie us with a rope, and that it is meant to facilitate the progress of the country. While the Constitution is not a matter which should be lightly amended, we should never hesitate to amend it when experience shows that the framers of the Constitution had not sufficient material before them when they framed it. The shyness to amend the Constitution whatever be the circumstances I would submit, is not a very healthy symptom. We should not feel shy to amend the Constitution when the situation requires it. I would, therefore, strongly commend this Bill.

Dr. Krishnaswami: I listened with interest to the Minister for Commerce and Industry commending this Bill for the acceptance of the House. I was however hurt by one remark in his speech which I feel it my duty to bring to the notice of the House. He

suggested that hon. Members who had appended their minute of dissent might probably get into headlines by talking of the "occupied field" and other such matters. I do not propose to justify those who have appended this minute of dissent; their minute of dissent is before the country and it is for the country to judge whether that minute of dissent contains valid reasons or not; it is for the country to pronounce its opinion on whether this amendment to the Constitution is proper or not. There is a vast constituency outside this house which is watching our deliberations examining the steps we are taking and evaluating the wisdom of the policies followed by us. What are the issues before us? We have embarked on a constitutional amendment, an amendment which involves the permanent abrogation of the rights and powers of the constituent units of the Indian Republic. I am not now on the question whether such abrogation is justified or not, but on the simple question of the manner in which this amendment has been brought before the House. It would have been in conformity with sound constitutional practice to have given proper notice to us, Members of Parliament, before bringing in such an amendment. Since this measure affects the States, as a matter of constitutional convention, principle and practice, we ought to have had their clear and unambiguous views before us. Parliament would then have been in a position to judge the validity of the views expressed by the States, views which would have been expressed without their discretion being fettered in the least. This has not been done.

As it is, notwithstanding our opposition—and I do not think I need make any secret about it—this Bill will become law, subject to the ratification of the States. But in the present set-up I want you, Mr. Deputy-Speaker, to consider this fact. The very passing of this Bill by this Parliament will constitute a directive to the States to ratify it and the expression of independent views envisaged in article 368 will not probably materialise.

The Constitution-makers did not envisage control over Production, supply and distribution by the Centre for more than a limited period. After mature deliberation they fixed the tenure of Parliament's control over these commodities in the concurrent field at five years. Any amendment in the nature of a far-reaching and of a permanent transfer of power to the Centre must be supported by data and figures. My grievance against the Government is that they could have furnished us with a comprehensive White Paper giving out the reasons for such a far-reaching and permanent abridgement of State autonomy. It is no use suggesting we have been irresponsible. By the time I have finished my speech I venture to think that I would have given some grounds for a temporary abridgement of the State power. But I feel that these grounds have not been given even by the Minister in-charge while introducing this Bill.

We have been supplied with a report of the Commodity Controls' Committee. I do not wish to indulge in polemics about it, but it must be clearly borne in mind by those who have read it that four out of the five members of that Committee have been Secretaries of four Ministries at the Centre. (*An. hon. Member*: Deputy Secretaries). And as such, probably—we do not say definitely—probably they had a bias in favour of permanent accession of powers to the Centre, at the expense of the States.

We ought also to bear in mind that the Commodity Controls' Committee was not constituted to enquire into the scheme of distribution of powers as between the Centre and the States. Whenever any abridgement of State powers takes place, the usual injunction in the case of such committees is that they should as far as possible respect the distribution of powers and then only give proposals. But that is a different story.

As I said, I do not propose to go into the controversial aspect of this matter and suggest that they should not have

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done it. What I am more interested in is to find out what the particular reasons are for recommending such a permanent abridgement of the powers of the States.

The States, after all, have a place in our body politic. It is a point which has to be emphasized. It is a point which has to be brought to the notice of some of my friends who have been thinking of them merely as administrative agencies or units and who do not consider that they have any more important function to fulfil. I think that it is necessary to understand the reasons which led the Government to this action and I shall try to visualize the reasons to the best of my ability. The hon. the Commerce Minister may correct me if I am wrong, and I wish to be interrupted if I, in the least, have misapprehended the Government. He made great play of the fact that concurrent powers were given to the Centre for a permanent period, and he suggested that I had probably made a mistake in not understanding the full implications of such transference. He quoted article 73 that executive instructions could be issued from the Centre to the States. But it had not been done. We know when it is issued.

When we talked of the "occupied field" what we had in view was that the legislative competence of the States was completely abridged. So far as this particular matter is concerned, substantially the field has been occupied by the Centre and very little is left to the States. I think no purpose is served by my arguing or others arguing that there is some space left for the States to legislate. But I should like to go to the fundamental question, because that is the question on which I have been considerably worried. And that is: what is our idea of planning, and what are the reasons for our saying that there should be a permanent abridgement of the powers of the constituent units? Let us examine some of the reasons which have led the Government to take up this particular standpoint.

I should like at the outset to point out to my hon. friends that we are living in a period of trial and error. For the past three years, we have been planning, and we have evolved some sort of system. Maybe, it is not the best, maybe it is haphazard, maybe it has defects. But there is one thing on which all Members will be agreed, those who support the Government and those who oppose the Government, that that system is not scientific at all. It cannot be in the nature of circumstances. It is experimental and on an *ad hoc* basis. Therefore, we have necessarily to understand that for all time to come that might not be the best system that might work, and this sort of transference of power to the Centre might lead to a stratification of the very system.

Let us also look at it from a slightly different angle. Today so far as the distribution of some of these commodities taken under the Industries Development Act is concerned, the priority lists for a commodity are determined by the Centre. Surely there can be other systems and the State lists of priority may be even better than those of the Centre. It is all right to suggest that for five years or thereabouts, when we have a difficult period to face, when we are to plan, when we are thinking of planning as a joint enterprise between the States and the Centre, it is all right to suggest that, there might be some additional powers given to the Centre during a temporary period. But why make it permanent? What is the justification? I have not been able to understand from the spokesmen of the Government or their supporters what particular reasons have dictated them to suggest that there should be a permanent abridgement of the powers of the constituent units of the Indian Republic.

I would also like to place before you some of the other considerations which should be borne in mind. My hon. friend the Minister of Commerce and Industry is an economist and under-

stands the implications of price control, of supply and distribution of these various commodities. The fixation of prices of a larger number of commodities gives a greater control over the creation of incomes in different States. There is no guarantee—and this is a point which I should like to bring to the notice of the House—there is no guarantee that this power will not be abused in the future and that there would not be discrimination, which is likely to work havoc to certain States. That is a point which has to be borne in mind. It is all right for a period of five years or thereabouts; temporarily it might be different. Mindful of the fact that we have to have planning in the present circumstances, and realising the great responsibilities which are facing our State, we suggested that there should be a safety valve in the shape of a review of this amendment after five years. And the heavens will not fall if after five years we approached the Rajya Sabha for the extension of legislative power by another year or two.

Acharya Kripalani (Bhagalpur cum Purnea): The Minister in charge may fall!

Dr. Krishnaswami: That may be. But he would have no vested interest in this.

I am suggesting that five years later we could have an examination of the whole Constitution brought up. Planning, as has been pointed out by the Prime Minister, is something dynamic. The face of India would have altered completely. The constituent units which are today poor would have become richer. Are they going to acquiesce in a permanent abridgement of their resources just because it is convenient for the Centre now to take them on? This is a fundamental issue which has to be faced.

There is another argument for entrusting the Government with temporary control over these matters. I am surprised that my hon. friend the Minister for Commerce and Industry did not refer to that fact. We have, for instance heterogeneous States in

our country. The White Paper on Indian States has pointed out that today there are many States with varying degrees of administrative efficiency. Possibly, in this transitional period, because of great difficulties, in order that our economic controls may operate in an administrative mechanism with a minimum degree of efficiency, we might give the Centre temporary powers for a period of five years. But, in another five years, they must have come up to their original state of efficiency. It would be an act of penalisation of the more mature States if we say that the marginal States alone should call the tune and that there should be permanent control or permanent abridgement of the functions of the States. Just as in the case of the Bank Award, the marginal banks determine the wage rates of the employees, which has led to a great deal of chaos, our Government seems to imagine that the marginal States will continue to be marginal for all time and therefore permanent powers ought to be given to the Centre.

There is a great deal of argument about national interests. I should like to refer to it at some length. The Constitution-makers were not altogether oblivious to national considerations, when they said that certain subjects should be in the State field. They obviously thought that it was in the national interests that these subjects should be in the State field. By you having utilised all your powers under entry No. 52 in List I, practically many of the industries have been transferred, under the Industrial Development Act, to the Central field for control, production and distribution. Are you sure that it is working in the most ideal fashion? Ninety per cent. of our major industries have been transferred to the Centre and there is a system of licensing which has been adopted by the Development Wing of the Commerce and Industry Ministry. It is one thing to say that particular industries are of national interest. It is quite a different proposition to say that any new unit that

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should be licensed should be licensed only by the Central Licensing Board. Why should somebody from distant south come over here to the Development Wing here, and put forward his point of view, a point of view which may not be appreciated by the Development Wing, far removed from the local habitat, and not having any knowledge of the local conditions? All these points have to be taken into account whenever we think of State control, State autonomy being assured.

I have been told that there are other difficulties which have to be taken into account. People talk of uniformity. I am all in favour of uniformity. But, there are two ways of achieving uniformity. One way is that of issuing directives to all the units to conform to a pattern. There is the other way of taking hold of the policies of the States and co-ordinating them, and thus promoting a degree of uniformity from the Centre. The latter, I think, is the better way. The latter, I think, is more democratic, because it will give a consciousness to the people of their responsibilities and make them feel that they are having a greater stake in the weal and welfare of our country.

Our Prime Minister, on one occasion, gave expression to a prophetic remark. He said, public co-operation could not be obtained unless there was co-operation from the bottom to the top. Are you going to have that co-operation by imposing directives and by suggesting to the units, if you do not co-operate, there is the Sword of Damocles hanging over your head, which will crush you and make you realise that you should be responsible after all? We have to realise that especially when we are living in a period of trial and error, permanent accession of powers to the Centre may not be the best thing at all.

Many have talked about the States. Some have referred to it as a luxury. Some hon. Members have suggested

that the States should be abolished together. I want to make one observation and I hope that my hon. friend the Minister of States will corroborate what I am going to say. The States, I think, have had a very good record. It is not or proper for my hon. friends to indulge in defamatory statements about them.

Shri Raghuramalah: May I know who said that the States should be abolished? It is a very serious allegation. Who said that?

Pandit K. C. Sharma: He is not making that allegation seriously.

Mr. Deputy-Speaker: I think the hon. Member is going far beyond.

Dr. Krishnaswami: I am coming to the point.

I welcome that interruption. I say that if you continue to abridge these powers, as you have done, the States very soon would have nothing else to attend to except "Treasure troves" and "Cattle pounds", to quote two of the entries to be found in the Constitution of India. I suggest that if you are going to have this idea of State co-operation, you have to really apply your mind afresh as to how we are going to have co-operation.

Shri N. C. Chatterjee: On the burial ground.

Dr. Krishnaswami: Today, for instance, we have had a great deal more of co-operation with the Centre in the State field than we have had in other fields. Take irrigation and flood control. That is purely within the State field. But, some of the problems that faced us, were of a baffling complexity. Today, as a result of persuasion, as a result of adjustments, as a result of compromise, without necessarily issuing a directive, the States have co-operated much more than in the case of those subjects where directives have been issued from the Centre. I want that point to be borne in mind, because it is absolutely essential if we are going to build up a healthy framework in our country.

Our position would alter radically in another five years, because the States would become much more powerful. Even those advanced States which have a certain degree of administrative experience of these things would not necessarily acquiesce in this permanent abridgement. You give them a lot of functions. You give them a lot of responsibilities. But, you do not give them the wherewithal to carry out those functions. It is a point of view which has to be taken into account. It is a point of view which cannot be ignored. I would wish very much to appeal to the hon. Members here. I know some may say that it is useless on my part to appeal to them. Nevertheless, I think it is perfectly useful. Certainly some of the inarticulate premises which you have held must be rudely shaken. That is my purpose in speaking today on this subject. Let those who hold some of these positions be shaken in their approach. If you wish to have real co-operation, if you wish to have Union-State co-operation or Dominion-Provincial co-operation as in the Dominion of Canada, I say that you cannot have it unless you are able to bring together the States and co-ordinate their activities and not just impose your will on them.

Shri A. M. Thomas: How can you co-ordinate without Central control?

Dr. Krishnaswami: Control will follow persuasion. How did you control in the case of big flood projects where you do not necessarily have control whatsoever? You can certainly control because the Centre has got enough financial grants to give. That itself is a method of exercising control. There are one thousand and one ways of controlling in the interests of democracy. Make them feel that they have a consciousness of their responsibilities. Do not impose your flat on them; do not impose your *hukum* on the various constituent units and say that they should carry it out.

There is one point which I hope you, Sir, will appreciate. People talk of powers being transferred to the Centre.

What does it mean in practice? Today, for instance, many of these administrative rules which are being issued by the various departments do not necessarily come up before Parliament for review. They cannot, in the very nature of things. Usually, what will happen is that all these powers will be wielded, in effect, by a Secretary or an executive of the Government. Is that what you want? Is that how democracy is to be promoted? Don't overload the Centre with too many functions and then say, we have not been able to fulfil them. This is a point of view, which if you are not able to understand now you will be able to appreciate some time later. I am not expecting you to be convinced on these matters thoroughly. I suggest that if we go on progressively abridging these powers, it will be impossible for us to create that atmosphere of co-operation absolutely essential for what is known as inter-dependent association of the various constituent units within the Union of India. And I therefore appeal to my friends and those who are in particular for the building up of better relations, not to persist in this constitutional amendment, to claim only temporary powers in the national interest and then bring about a review of the position after five years. That you may not be able to take up. That position might be difficult for you to take up, but should you take up that position, I venture to suggest that the constituent units and the States and the people in different parts of our country will praise you for your democratic effort, and will take the definite view that at least for once you listened to the voice of reason. I make this plea. I know it may not be heard, but I hope at least remotely it will make some impression on those in power and in direction of policy, so that ultimately we might be able to have a better chapter opened in the relations between the Union and the States.

4 P.M.

An Hon. Member: No chance.

Shri C. C. Shah (Gohilwad-Sorath): Mr. Deputy-Speaker, Sir, the

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opposition to this Bill is based essentially upon two arguments, viz., that it is a serious encroachment upon the powers of the States, and secondly that it will retard the forces of democracy by excessive centralisation of power. These two arguments may be repeated in various forms by various speakers, but if you analyse all the speeches of the Opposition, essentially it comes to these two arguments and no more.

An Hon. Member: What more do you want?

Shri C. C. Shah: Yes, exactly, and therefore I will examine only these two arguments.

Divorced from facts and speaking theoretically and in the abstract, these arguments may sound very plausible, but what we have to examine is: what is the nature of the encroachment, and what will be its effect. That is why I request my friends in the Opposition to concentrate more on facts, rather than on abstract principles which they are enunciating. We are as much in love with those principles as you are, and....

Mr. Deputy-Speaker: Hon. Members will kindly take care to see that they address the Chair—on both sides.

Shri C. C. Shah: I appreciate it, Sir.

Now, what is the nature of the encroachment which is so much talked of? Article 369 is composed of nine items over which the control of the Centre was given for a period of five years. Out of these nine items, five items have already been put under the permanent control of the Centre. I will read those nine items: cotton and woollen textiles, raw cotton, cotton seed, paper (including newsprint), food-stuffs, cattle fodder, coal, iron, steel and mica. Out of these nine items put in article 369, five items, viz., cotton and woollen textiles, paper, coal, iron, steel and mica are already

under the Industries (Development and Regulation) Act under the control of the Centre permanently. When that Act was passed, I never heard any Opposition Member say that we were doing something which was outrageously wrong....

Shri K. K. Basu: We were not here.

Shri C. C. Shah:...that we were encroaching upon the powers of the States to such a great degree that we were permanently altering the division of powers between the States and the Centre. Five of the most important items—cotton and woollen textiles, paper, iron, steel, coal and mica—which make up more than fifty per cent. of the items composed of the nine items under article 369 have already gone under the control of the Centre, and that too by an Act of this Parliament, and that Act was passed because it could be passed, and yet there was no opposition to that. Only four items remain. Those four items are what you may call agricultural products, and the agricultural products cannot be brought under the control of the Centre except by a minor amendment of the Constitution, and that is why this Bill is, technically speaking, an amendment of the Constitution. But it is extension of the same principle by which we transferred these five important items from article 369 to the permanent control of the Centre. I, therefore, respectfully submit that we are doing nothing new, nothing outrageously wrong, in what we are doing today, but we are only extending a principle which this Parliament has already accepted by the Industries (Development and Regulation) Act. That is to be borne in mind.

The only new item which is included in this amending Bill is raw jute. Now, that is an item with which, primarily speaking, it is the West Bengal Government which is concerned, and it is that Government which has fully concurred in this

Bill. Therefore, does it lie with us to say that in spite of the concurrence of the only Government which is primarily concerned with raw jute and which consents to these powers being given to the Central Government, we should object to it? (*Interruptions*). The hon. Member Shri K. K. Basu may represent the people of Bengal better than the West Bengal Government, but that is a claim which I doubt.

Mr. Deputy-Speaker: It is only a doubt, after all?

Shri C. C. Shah: I would like to put it as mildly as I can without in any way offending his susceptibilities. (*Interruptions*).

Shri Raghuramaiah: It is a doubt without doubt. (*Interruptions*).

Shri C. C. Shah: There is one other item in this about which nobody has said anything, namely, Imported Articles. (*Interruptions*). It is true that mica is not included at present under the Industries (Development and Regulation) Act, but it can be added by an Act of Parliament without any amendment of the Constitution.

The next thing to bear in mind is that these items are being put in the Concurrent List. My hon. friend Mr. Asoka Mehta belittled the importance of the fact that these items are put in the Concurrent List, and he thought as if it was a permanent encroachment upon the powers of the States. Now, I would like to refer to article 254 of the Constitution which states the effect of an item being in the Concurrent List. So much is said about the occupied field and so on. Let us see what exactly it means. Article 254 (1) says that if there is an Act passed by the Parliament which is inconsistent with an Act of a State, then, to the extent of the inconsistency only the Central Act will prevail, but that leaves the full field and discretion to the States to pass

such legislation as they think proper, and the Centre comes in only when the problem becomes an all-India problem and a situation has arisen where it becomes necessary that, because of the varying and conflicting laws passed by various States, there should be some uniform legislation. But, that is not all. Under clause (2) of article 254, even when there is a legislation by the Centre, if any State makes out a case that in spite of a Central Act it is necessary for that State to have an Act of its own even inconsistent with the Act of the Centre, and if it satisfies the Central Government and the Act is reserved for the consideration of the President and receives the assent of the President, the State Act can prevail within that State even over the Central Act in spite of its being inconsistent. Therefore, this loud talk of occupied field and the States being permanently and outrageously deprived of their field of power is, if I may respectfully say so, somewhat outside the facts.

The third thing we have to bear in mind is, as the hon. Minister referred to it, article 73. Under article 73 the entire executive power of Acts of this nature is left to the States. Now, I entirely agree with my friend, Shri Asoka Mehta that a legislation of this character cannot succeed unless we have the full co-operation of the States, because the Act, even when passed by Parliament, would have to be administered by the States, and therefore, even when Parliament thinks of passing such an Act, it will and it must—the Government at least must—assure itself that the States will fully implement the Act which Parliament wishes to pass; because, the entire executive power under the proviso to article 73 rests with the States, and therefore, unless there is the full assured co-operation of the States, the Centre, in spite of the fact that it has the power to pass such an Act, will hesitate and will not, in my opinion, pass such an Act unless the full co-operation of the States is forthcoming.

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Now, on all these grounds it must be obvious, I submit, that there is neither such serious encroachment of power, nor such serious disturbance of the distribution of powers as is sought to be made out. And the States will still be consulted. They have the opportunity to voice fully their views under article 368 when this legislation goes to them for ratification, and it is only when half the number of States of Parts A and B concur in this legislation that it will become effective. But apart from that, what are the facts? Members of the opposition have argued and they have conceded that a further extension of the powers may be necessary under article 369. We must go to the recommendations of the Commodity Controls Committee in this connection. My hon. friend Shri Raghuramaiah has already referred to para 41 of that report. I would like to read para 36 of that report, because so much has been made of article 249, which gives power to the Rajya Sabha to pass a resolution regarding a particular commodity, which has got to be renewed from year to year. What does para 36 say? It says:

"Whether at any time it is necessary to exercise control in respect of a particular commodity and if so, to what extent and in what form the control should be exercised depends entirely upon the overall situation regarding that commodity at that time. The commodities in respect of which control is necessary and the form and extent of such control, therefore, keep on changing from time to time. It is neither possible nor desirable that legislation should be undertaken time and again to provide for control of different commodities as occasion arises. To have a number of laws on the subject of control is also confusing. The Committee considers it essential that there should be a single permanent and consolidated law conferring

upon the Central Government reserve powers to enable the exercise of control over any commodity at any time; such law should be sufficiently elastic and comprehensive to meet every emergency."

That is a complete answer to those who advocate a resort to article 249 of the Constitution, which is only of a temporary nature.

An Hon. Member: Emergent.

Shri C. C. Shah: Certain observations have been made in this minute of dissent regarding the Committee which made these recommendations. I must regret that these observations should have been made by responsible Members of this House.

Some Hon. Members: Why?

Shri C. C. Shah: I will presently point out why. What does the minute of dissent say? It says:

"Without casting any reflection on any individual member of the Committee, we deem it our duty to point out that four out of the five members of the Committee were either Joint Secretaries or Deputy Secretaries to the four Ministries of the Central Government..."

They have said that because four of them were either Secretaries or Joint Secretaries or Deputy Secretaries of the Central Government, therefore, they must have a bias for the Central Government. It needs a great deal of courage to say that because they are civil servants of the Central Government, therefore, they must have been biased or prejudiced. (*Interruptions*). The only grievance made is that no representative of the States was associated with that Committee. As to what they have done, you have only to turn to Appendix II and III of the report. You will find in Appendix II, the names of each one of the twenty-six States, and each

one of these States has submitted its memorandum on the questions which this Committee was to consider. Twenty-one out of the twenty-six States appeared before the Committee, and gave all their arguments, submissions and facts on the questions which were being examined by the Committee.

Shri N. C. Chatterjee: May I draw the attention of the hon. Member to one point? All that we have pointed out is that it is a matter of regret that not one representative of the State Government was represented on the Committee.

Shri C. C. Shah: That is what I am pointing out. The States were fully consulted at every stage.

Shri N. C. Chatterjee: Not the State Government.

Dr. Krishnaswami: They were not represented on this Committee.

Shri C. C. Shah: You may draw your own conclusion that because a representative of the State was not there, there was a bias against the States and in favour of the Centre. That is not a conclusion which I am prepared to draw, and that is not a conclusion to which any reasonable person should come.

Pandit K. C. Sharma: That is not warranted at all.

Shri C. C. Shah: The real opposition to this measure is based upon a different ground altogether, and that ground was given out by my hon. friends Shri K. K. Basu and Dr. Krishnaswami, and that ground is, "we doubt the *bona fide* of this Government."

Shri K. K. Basu: Of course. (*Interruptions*).

Shri C. C. Shah: Shri K. K. Basu says, of course, and Dr. Krishnaswami said that there will be an abuse of the powers by this Government. That is exactly where they disclose their real ground of opposition. That charge is not true. (*Interruptions*).

Acharya Kripalani: From their acts, we judge them.

Shri C. C. Shah: It is not that they are opposed to the principle of this Bill. It is not that they are opposed to the necessity of this legislation. If they had been in power, if they were occupying the benches which Government are occupying today, they would have passed the same legislation probably with more drastic powers.

Some Hon. Members: No. (*Interruptions*).

Shri C. C. Shah: It is only because the powers are to be exercised by persons other than themselves that they do not like this legislation.

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): I knew you can never be so wise.

Shri Raghuramaiah: I doubt whether they will have that wisdom.

Shri C. C. Shah: I submit that the Opposition opposes because the powers which are now being given to Government will not be exercised by them for the present or for a long time to come, and that is the only ground of opposition, with which we entirely disagree. I support the Bill.

Shri Raghavachari (Penukonda): I was also a member of this Joint Select Committee, and I am also one of the authors of this minute of dissent which has been appended to the report of the Joint Select Committee, along with my other friends.

I too had the pleasure of listening to the derisive remarks of the hon. Minister in charge of this Bill. I for one know that when they have no argument, they generally begin to abuse the opposite party. The Minister has a notion of his own conviction, and the reasons behind the opposition he is unable either to see or understand in their proper light. Apart from what the minister

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thought, he came out in his assumed superiority of knowledge. I really feel that that is hardly the attitude that a responsible Government Minister should ever have towards the opposing members of the Select Committee, especially when all of them have found fit to append a joint minute of dissent.

I was listening carefully to Shri C. C. Shah's remarks. I have also examined this legislation, and what appears to me to be most objectionable is this. At a time which was much more disturbed, at a time when the atmosphere was really much more doubtful as regards the future, the Constitution-makers did specifically consider, before enacting article 369, whether it was worthwhile to extend these powers permanently or for a longer period than five years. There were amendments; there was full consideration on all of them, and the hon. Minister in charge definitely came forward and said, that there was no need for these powers permanently, and when the Constituent Assembly passed this article, they definitely said that the powers shall not be beyond five years. It is not only that, they have said, but they have also said that the moment the fifth year is over, the legislation passed must lapse. So, the people who enacted this Constitution, who were, I suppose, much more imaginative, much more responsible and much more sympathetic to the future of this country, thought that these powers conferred under article 369 must be there only for the period of five years, and nothing more. Why is it they came to that conclusion?

They came to that conclusion, because if you examine the allocation of items under the different Lists in the Seventh Schedule, you definitely find that there has been a particular picture before the Constitution-makers, and since that picture was that in India, peculiar as it is, mostly an agricultural country, they never could contemplate that foodstuffs,

oilseeds, and almost every conceivable thing on which human beings must live, and animals also must live in this country, should be within the purview of the Centre's interference. Naturally, therefore, they said that this power cannot go beyond five years.

Now, the only question is that it is not a general discussion merely whether the Constitution can be amended or not, and whether we are trespassing upon the province of the States or not; these are not the only considerations, and no reasonable man would say, that these are the only considerations. I would ask: Is there a need for it? If there is need, can we entrust you with these powers? What is the experience that you have left on the country, when you had these powers within these five years? Are you satisfied with your own Commodity Controls Committee's report? It is a solemn document on which you wish to place your support, and you quote it as your Bible. What is it that they have said?

I am not going to quote *in extenso* what they have said in the Committee's report. Suffice it to say that they have definitely conceded that the control powers have not been properly exercised and it has left a very bad trail behind of corruption, of suffering and so much of human misery. That is what they have said. It does not require me to point this out. I am not able to understand how this Government can ignore those paragraphs and those statements and that experience. Is it not that but for the fact that the controls were hopelessly and miserably applied and administered in the whole of the States, much of this suffering of the country would have been saved? Therefore, this is the taste you have left, and this is the way in which you have exercised these controls over these five years. I for one honestly feel that it might take not five years, but ten more years before all that corruption, the

habit of corruption, which these controls have produced and left behind in every nook and corner of this country, goes. Every human being who has had anything to do with these controls has misused his power. He has battered and fattened himself. You entrusted all these monopolies to a co-operative society or a particular friend or a partisan or somebody and the consequence was that he went on accumulating money in crores, lakhs and thousands. I would ask any Member of this House to consult his own experience or the experience of his near relatives, if they had anything to do with the control and distribution and trade of these things, whether it is not a fact that they have made money. How can you, therefore, say—a point which you have made—“there is absolutely nothing here. We want this. We are going to do that”? How can you expect the country to believe this and to forget the nasty impression that you have created in the mind of almost every human being, that these controls are an engine of oppression, that these controls are matters for people who can make themselves big and fat? That is the thing which is at the bottom of the opposition; that, I personally feel, is against the extension of these powers.

Then it was said that these people who dissented had conceded the need for extension. The next argument was: who can say what the next five years will bring? And we are with a planned economy. These are the arguments which are urged. I ask: what was it that you had placed before your mind when you started the Five Year Plan? They expected—they are saying they believe, and they want us to believe—that at the end of the fifth year, they would have solved this food problem. We at the end of the third year and in two or two and a half years expect the food situation in the country to be much better, practically self-sufficient. They are in every budget speech, on every occasion—and in their journals—claiming that they have produced so

much food and so the food position is comfortable, the cloth position is comfortable and every position is comfortable. Today, even before the end of the Plan period, they are spending crores to make us much more self-sufficient. They believe it to be so. Still they want us to believe them when they say: “Who can say what the next five years will bring?” So do they want us to believe that when they are saying all these things, that they are spending crores to solve this problem, they are deceiving us and they are putting a spurious case? They say that this is going to solve the problem. But today they ask, “what is going to be the position tomorrow? There might be a famine; the whole country might perish; this responsibility is theirs”. Is it not equally the responsibility of the States and of the whole nation? Therefore, all these arguments are simply arguments for the sake of arguments.

I for one feel that the whole scheme of this distribution of powers in the Seventh Schedule is that the State has absolute control over things which are essential in everyday life. They no doubt get for a temporary period—five years—some powers under article 369. Now they have added to item 33 in the List and they want to base the entire argument on what the Commodity Controls Committee has recommended. Have they examined the way in which the Commodity Controls Committee has approached this problem? They went to the length of saying that items 26 and 27 of the State List should be abolished. Is that the recommendation of a responsible set of people who are really interested in the proper jurisdiction and rights of the States. They said that items 26 and 27 must be removed from there; they also said that these powers must be permanently taken over by the Centre.

Therefore, when I read through that report, I was perfectly satisfied that their approach—and the only approach would be—that controls must be retained. Do you forget the

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experience, during that period of controls, when Mahatma Gandhi was alive and was about to stake his life for the abolition of these controls; because the controls left behind in the country the dirtiest experience and habits? I feel unwilling to express this, but it is a well known secret that the existence of controls is the existence of an army of officials. It is the very foundation on which the officials would exist.

Shri M. S. Gurupadaswamy: An army of favourites.

Shri Raghavachari: We know that quite recently Mr. Rajagopalachari had the courage—I expect with the consent of the Centre—at a later stage—to abolish the controls in Madras. Did the heavens fall then?

I must here express my appreciation of the fact that the Food Minister Mr. Kidwai, has always taken a bold stand. Even on the floor of this House, I have heard again and again the plea for controls, for basic controls and people saying 'there is need for controls', and Mr. Kidwai coming and saying 'there is no need for controls in this State, there is no need for control in that State'. The other day.....

Mr. Deputy-Speaker: Is it not an argument against the hon. Member, that the Centre will exercise it with care and caution?

Shri Raghavachari: You will please appreciate that it is not always that we have people who exercise their powers properly. For instance, I will cite my experience in this House. For the last 2½ years I have been seeing so many Boards which have become 'black Boards', nominated Boards in the pockets of the Ministries.....

Shri M. S. Gurupadaswamy: Rubber-stamp Boards.

Shri Raghavachari: Every day a Bill is brought saying that what the powers and constitution of these Boards are, saying that these are not to be elected but nominated by some

power, by some interest. Therefore, this power is a very bad thing in life; it often makes a man use it not properly. There have been quite a few occasions like that. Therefore, shall we entrust these powers permanently to them? Have they made out a case? My point is simply, whether they have made out a case. They referred particularly to an Act that has already been passed, where certain commodities on which industries flourish have already been the subject of some legislation. I have not been able to understand the whole purpose and the need for these elaborate powers that they want. I can understand that in a state of emergency, in a state of danger, certain powers to the Centre are necessary. But what is it that they are proposing to take? Is it trade and commerce and supply and distribution that they want? If it is inter-State trade, you have that power. If it is within the State, why do they want to go in for that? Our fear is about some of these powers that they want, more particularly over food-stuffs including edible oilseeds and oils or cattle fodder, including oilcakes etc. These are all the things, power over the production, trade and distribution of which they want. That means within the State. Otherwise, it is unnecessary. If it is meant only to keep your powers over trade and commerce and distribution and supply, there may be something to be said for it in a state of emergency, as a matter between State and State. That you can do even now.

Therefore, it is unnecessary. These powers are sought to be taken over matters which are all-inclusive and which leave nothing for the States. It is also likely to affect many other items of the list in which the States have exclusive responsibility. It may be said that it will not be exercised in the old way, but the point is: where is the need for such power to be given to them? For instance, there is agriculture. You want to take power for production of food-stuffs; agriculture includes education,

research, diseases of plants and all such things. These are all matters for the State. If they want to take over control on production of foodstuffs, then there is need for control over land which is in the State list. Then, you know, foodstuff is not defined in this. We must presume that whatever is eaten or consumed is foodstuff. What about liquor? It is a drink which is naturally within the competence of the State. Then they—the States—have got the preservation of cattle and the States have to take the responsibility of preserving cattle without the cattle fodder; that is, some other man produces cattle fodder so that my cow or buffalo must flourish. Again, I find that water, irrigation, canals and all these things are there in the State list. How can they control foodstuffs or their production without power over water and other things like that? It is all something, which, when you examine in detail, will appear to be against the whole scheme of the arrangement of these Schedules.

Then again, they get control over fisheries because fishery is something connected with food over which they want to take the monopoly. It may be said: they are not going to exercise all these powers; it is only put in there for exigency or emergency. All the offences relating to these matters are within their, i.e., States competence. About agriculture and all these other things the offences are also within the competence of the States. Now, they want to change it over to the Concurrent List and thereby, certainly, it is an encroachment on the States' powers. They may say: they are not going to exercise it like that, but how am I to accept that? There are very many occasions when it has been wrongly used or improperly used. To quote an instance I come from that part of the country which is known for oilseeds. Almost everyday there is a loud cry about oilseeds. It is not one district or two districts, it is almost 2½ States—Hyderabad, Mysore, Andhra and also some parts of Madras. The whole thing is controlled and the Minister wants that the price

must come to Rs. 1,000 and then he will do something. There has been suspicion—some questions are often asked on the floor of this House—that much of it is going to benefit the *vanaspati* industry. The Minister was saying—only yesterday or so—that the *vanaspati* traders are passing through very bad days. Therefore, much of their margin of profit is being cut; may be, where they were getting crores, they might be getting only lakhs. But, the point really is that the agriculturists are having nothing. Therefore, Sir, the unfortunate thing is, so far as these powers which they want to take over permanently are concerned, I feel it is such a big slice; that, I am afraid, will leave nothing to the States. It will surely lead to all kinds of complications apart from these arguments of encroaching upon each other's power.

I also find that in matters of amendment to the Seventh Schedule, the Constitution requires that the majority of A and B States must consent. Is it not wisdom, is it not the ordinary commonsense that you should have a possible expectation of the majority of these States agreeing to this enactment? They have consulted the States and as far as the analysis placed before the House is concerned, it looks.....

Pandit K. C. Sharma: They expect their ratification.

Shri Raghavachari: You expect ratification; I will come to that. What I am saying is: today they have been consulted and they have expressed their unwillingness; some are against and some are still considering. As one hon. Member at the earlier stage of this discussion said: "They have not got the courage to say 'No'". It only means that they are willing to say 'No' but they are afraid to say that. That is the only thing behind that argument. If that is so, is it not that the Government are forcing this against the consent of the States? In other words, they do not care or they hope to persuade the States after the Bill is passed. Persuasion can't be from coercion to reasoning with them.

[Shri Raghavachari]

Therefore, because in the States they happen to have a majority—I once even heard an argument to that effect—they think that this is the most opportune moment and they can rush through with this legislation. But, it is a most dangerous attitude for any section of the representatives of the people that they can do things in a moment of expediency. It is not a question of our friends here saying that there is Congress majority in most of the States and therefore, it will all go all right. How can we expect that? You are changing the Constitution permanently. Will the present state of affairs continue permanently in the country? Can you always expect that the Centre and the States will all be manned and controlled by one party, one political party? It is not a question of giving more powers here or more powers there. That is a flippant argument and not a reasonable argument. You cannot say that another man will not misuse it. The whole question is as to what should be the responsibility of a Parliament before the Centre can be allowed to take over such large powers, stretching over almost all the activities of the States exclusively reserved under this allocation of subjects. I have felt that there has been absolutely no need to have such wide powers over all these items. I have myself given an amendment that the word 'production' must be omitted in the clause; of course, in due course I can refer to it when the matter comes up. One can understand, trade, commerce, supply and distribution. I once heard the Commerce and Industry Minister saying that control over some industries involves control over supply and distribution. Are they not satisfied with the powers over trade, industry, supply and distribution? They want to control all these things, relating to sale, production etc., on which the States largely depend for their finance. My hon. friend Shri C. C. Shah was saying that it is a concurrent subject. What does it matter? The

Centres' legislation if it is inconsistent with the State's legislation to that extent alone, it prevails and over other matters the control of the State legislation prevails. But what prevents the Centre from passing an all-comprehensive legislation leaving no room to the State to legislate? Therefore, if really you want to have uniformity of Legislation and administration in regard to these fundamental or important items like foodstuffs and other materials, as per the Constitution it is provided that you can so legislate with the consent of the States. The Parliament can legislate; that law will govern these matters in all the consenting States. Some States may agree and other States may later accept to be guided or abide by the legislation that is passed.

The other point is they referred it to twenty-seven States and said 'we want the power'. I think except the Part A and Part B States, the Part C States may be practically left out of consideration. Parliament can always legislate for them. We have always got these powers. So the question of there being some trouble in less advanced States; that argument does not appeal to me.

There was one other argument. Mr. Raghuramiah was saying "the persons who have appended the minute of dissent have conceded that it may be extended for five years." "If there is need", they have put in. If you do not wish to read the "if" and other things, I cannot help.

I personally feel that there is absolutely no need for this amendment at this moment when they claim, their plans claim, and they are always doing propaganda that things are quite well, that they have managed things so well and that all of us are happy. And now they say "tomorrow there may be difficulty and therefore we want powers". I am not at all satisfied. I feel there is no need for this amendment now.

Mr. Deputy-Speaker: Shri Mulchand Dube.

Shri U. M. Trivedi: Those of us who were not given an opportunity at the time of the first consideration were told that we would get an opportunity at the time of consideration of the Select Committee Report. But we find that those who had already taken advantage have again spoken today and we are deprived of our opportunity.

Mr. Deputy-Speaker: I do not know who all spoke already, whether Shri Asoka Mehta spoke already. Shri K. K. Basu spoke already. Dr. Krishnaswami spoke already. Shri Gadgil spoke.

Shri U. M. Trivedi: He spoke twice.

Mr. Deputy-Speaker: And then Shri Raghuramaiah, Shri Raghavachari, Shri C. C. Shah. I am calling others also. Each hon. Member may take ten minutes. Many of the points have been sufficiently stated.

Shri V. B. Gandhi *rose—*

Mr. Deputy-Speaker: Yes, Shri Gandhi's name is also here. I can never forget it.

Shri V. B. Gandhi: Thank you.

Shri Mulchand Dube (Farrukhabad Distt.-North): I beg to submit that it is absolutely necessary that the proposed amendment should be made. Hon. Members opposite have approached this question from an entirely different and, if I may say so, erroneous point of view. They have approached this question from the point of view of the States and not from the point of view that India is one unit and not a conglomeration of States.

The points made by the Opposition, as already stated by Shri C. C. Shah, boil down to these: firstly that this is an encroachment on democracy, and secondly that it is not necessary at the present moment. In regard to the first I may say that this Parliament is also a democratically elected body and it represents the citizens of India quite as much as

the Members of the Legislatures. So when this Bill is attacked on the stand that it is an encroachment on democracy, my submission is that the entire approach is wrong. This House is quite as much a democratic body elected by direct election, and therefore so far as the question of encroachment of democratic right is concerned, that question, I submit, does not arise.

The second point that has been made is that it is not necessary at the present moment. And an argument is put forward in support of it that the food situation at the present moment is comfortable and satisfactory. The food position is comfortable and satisfactory because the Centre has been administering this subject for several years past. It is not because the States were administering the subject that the position is satisfactory. We have famines and scarcities in different parts of India every year. In this year also there have been floods in Bihar, Assam and West Bengal, and in other parts of the country also a great quantity of food has been damaged or destroyed by floods. There are many States which have scarcity even in this year.

This is certainly an abnormal year to a certain extent. But every year, in and out, we find that there is scarcity in one State or another. If a surplus State takes it into its head to say that it will not supply food to the State which is deficit or supply it only on such conditions which may not be practical or which may not be acceptable to the other State, in that case who is the authority to come in the way and to see that the food is supplied also to the deficit States on reasonable terms? It is only the Centre that can do so. Therefore, it is necessary that the Centre should have the power to control the foodstuffs and their distribution throughout the whole of this country.

Apart from this it has also to be considered that the Centre does not

[Shri Mulchand Dube]

take the full powers in respect of foodstuffs and the other items that are included in this amendment. They are only placed in the Concurrent List. And placing it in the Concurrent List means that the execution of any legislation which may be passed by the Centre will be left to the States.

Then there is another thing, that this Act will not become law unless it has been accepted or endorsed by at least half of the States.

Therefore, to say that it is an encroachment on the democratic rights of the people or that it is not necessary at the present moment or that it will not be necessary hereafter, is not correct. My submission is that all these arguments do not carry much weight. I fully support the Bill and I hope it will be passed.

Shri V. B. Gandhi: We are glad to say that in the report of the Joint Committee that is before us we see a general agreement with the central object of the Bill. When I say general agreement, I mean the entire agreement of the majority report as well as the agreement of the minority report, that is, the minute of dissent which is signed by seven eminent Members of the Committee. What is the central object of this Bill? The central object of this Bill is to enable the Central Government to continue to have the power to legislate in respect of certain essential commodities. This power the Union Government already has today, under article 369. But it will lapse on the 25th January, 1955. When I say that we have a general agreement I say that the minority report also agrees with the central object. Here is what they say (page v):

"We are fully alive to the necessity of clothing Parliament with necessary authority to keep certain matters under Union control in view of the needs of planning."

So they agree with the need of keeping certain matters under Union control.

Their suggestion in the matter is:

"We suggest that the period specified in article 369, if its extension be considered essential, may be altered so as to make the total period of Parliament's competence extend up to ten years."

They agree with the central object. Only they would give this power in a different form and for a shorter period. The reason for their wanting to give it in a different form and for a shorter period is that they are apprehensive that the present Bill,—I shall quote—

"if passed into law as it stands will constitute a serious encroachment on the rights and powers of the States."

If we can now show that the present Bill does not constitute such an encroachment or that the States themselves do not consider it as an encroachment on their rights or that the States themselves agree with the objective of the Bill, of course, much of the force of their argument should go out. As we know, after all, this Bill does not become law and the Constitution does not stand amended simply by this House and the other House of Parliament passing it. It has ultimately to go to each one of the States in Parts A and B. After all, the States are going to have an opportunity to have their say whether this Bill constitutes an encroachment upon their rights or not. I think we ought to leave it to the States to decide and not take upon ourselves the responsibility of deciding such a vital issue for them.

I come now to para 5 of the dissenting minute regarding the Commodity Controls Committee. We would very much like this House to dissociate itself from the observations that occur in this para about the personnel of the Commodity Controls Committee. After all, they are not here to defend themselves and in fairness, we ought to say that we dissociate ourselves from these observations.

There is another contention made in this regard. The minute of dissent says:

"...it was not within the purview of this Committee to enquire into the question of distribution of powers as between the Centre and the States."

One only has to look to the terms of reference of this Committee and there the first term is.....

Shri Raghavachari: The hon. Minister has conceded that.

Shri V. B. Gandhi: I am quoting from this report itself.

It is,—

"to examine and review the working of the Essential Supplies (Temporary Powers) Act, 1946."

Now, this Act lapses and it is, therefore, the duty of the Committee to recommend ways in which the powers at present exercised by the Union Government can be continued. If these powers can be continued by means of an amendment to the Constitution, it was perfectly within their purview to suggest such amendments.

There is a general belief that by extending the Concurrent List, as it will be extended if this Bill is passed, we shall be doing some violence to the federal principle underlying our Constitution. But authorities on constitutional law have said very clearly that neither the existence nor the extension of the Concurrent List in any Constitution violates the federal principle of a Constitution. Some hon. Member said,—I believe it was Shri Asoka Mehta,—that when this Government is taking this power, it is going to use that power. Of course it is going to use it. But, 'using the power' is rather a crude expression when we are talking in terms of the Constitution. The power that the Union Government will be empowered to exercise under the Concurrent List will be what is known as the

'potential' power and the 'real' power will rest with the States and the States legislatures. In this connection, I will quote a passage from the speech of the hon. Minister of Commerce and Industry in the other House in which this distinction is made very clear, where we are able to see that the power which the Union Government will exercise will be potential power and that real power will rest with the States. Here is the passage:

"...even in regard to item 33 of List III as it stands today..."

Shri M. S. Gurupadaswamy: On a point of order, the hon. Member is just quoting from a speech which the hon. Minister made in the other House. Can he quote that speech?

Shri T. T. Krishnamachari: Ministers' statements are allowed.

Shri M. S. Gurupadaswamy: There was a previous ruling in this House.

Mr. Deputy-Speaker: The previous ruling referred to speeches made by Members of the other House. Speeches made by Ministers can be quoted. Hon. Member can look into it. The Ministers are both here and there. If they make one statement here and another statement there, we can bring to their notice such things and refer to that statement. They have made a statement already with a view to explain some misunderstanding about that statement. An exception has been made in regard to speeches and statements made by the Members of Government.

Dr. Ram Subhag Singh: Why this discrimination in this small matter?

Shri V. B. Gandhi: The passage is:

"...even in regard to item 33 of List III as it stands today in respect of those powers which the Central Government exercises, the amount of regulation directly exercised by the Centre is the minimum ..."

[Shri V. B. Gandhi]

I wish to repeat this: "the amount of regulation directly exercised by the Centre is the minimum".

"..... and we can only say that the power that is vested in the Centre is potential rather than real and it is very largely left to the State Governments to operate these powers either by express delegation or by the rule-making powers vested in them."

That is all about this apprehension of the Centre usurping the powers under the Concurrent List which belong to the States.

5 P.M.

In this House, it is very essential that we consider this problem also from the point of view of the States. It would be interesting for a moment to consider how the State legislatures will react to this Bill. What will be the considerations on which their judgement will be based? For the States, it will be an intensely practical problem, and a very serious problem too. We must not forget that here we are talking of the States in the abstract. But all States are not similar to one another. They have very different problems and their economic status is not the same. So, the considerations that will weigh with the States cannot be the same in all cases. The States will also seriously give consideration to their past experience in regard to these powers which have been exercised by the Union Government in the past five years. They certainly will not forget to consider and weigh their experiences in the past five years. The States will also consider how the needs of their planning will be affected. There will be States which are surplus States in the matter of food. There are others which are deficit States. There are States which are liable to floods, famines and other kinds of natural calamities. Then, there are States which have lately gone through very heart-rending experiences, as a result of the operations of hoarders and speculators, because most of these essential

commodities are commodities which are liable to surpluses and deficits one year or the other. The States will consider this matter strictly from the point of view of the interests of the States, of their individual States, while not ignoring the interests of the Union as a whole. There can certainly be no question of the States looking at this problem from the point of view of there being two hostile camps, one camp "the States" and the other camp "the Union Government". They will certainly not look upon this question from the point of view that what is the gain of the Union is the loss of the State, or that what is the loss of the State is the gain of the Union, and therefore for us in this House to consider this matter in a very theoretical and academic manner is not really necessary at this stage. We can trust the States—their legislatures are fully responsible—we can depend upon them to take care of the real interests of their individual States. Therefore, in talking about these interests of the States and the encroachment on their rights in this House we are barking up the wrong tree. Let us therefore be patient, wait and see.

Mr. Deputy-Speaker: Has the hon. Member much more to say?

Shri V. B. Gandhi: I will finish in two to four minutes.

Mr. Deputy-Speaker: All right. Two minutes. (*interruptions*).

Some Hon. Members: Let him continue tomorrow.

Mr. Deputy-Speaker: Let him finish so that another hon. Member may start tomorrow.

Shri V. B. Gandhi: If you will allow me

Mr. Deputy-Speaker: Yes.

Shri V. B. Gandhi: ...I will continue tomorrow.

Mr. Deputy-Speaker: Then the House will stand adjourned and meet at 11 A.M. tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday the 23rd September, 1954.